



A BRIEF ASSESSMENT OF THE JUVENILE COURT SYSTEM IN SHELBY COUNTY, TENNESSEE

REPORT TO SHELBY COUNTY GOVERNMENT

June 2007

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TABLE OF CONTENTS

	<u>Page</u>
Acknowledgments	v
I. Introduction	1
A. The Juvenile Court in General.....	2
B. Organization of the Court.....	2
C. Caseload	3
D. Notable Recent Developments	5
II. Review of Structural and Organizational Issues	8
A. Case Assignments to Judicial Officers	8
B. Office of the Juvenile Defender.....	9
C. Guardian ad Litem Office.....	13
D. Office of the Advocate for Noncustodial Parents.....	15
E. Probation Services.....	17
F. Detention Center	19
III. Monitoring the Status of Cases and Managing Their Progress.....	22
A. General Overview of Case Processing Workflow	22
B. Information Systems for Monitoring Case Progress.....	24
C. Abuse and Neglect Cases	26
D. Juvenile Delinquency Cases.....	33
E. Disproportionate Minority Contact.....	40
IV. Strategies for Change	45
A. General Approach to Improvement	45
B. Continued Attention to Best Practices	46
C. Court Performance Measures.	47
D. Broadening Juvenile Court Advisory Council	48
E. Communication with Stakeholders and the Public	49
F. Conclusion	50
Appendices.....	53
A. Comments on NCSC June 8 Draft Report by Juvenile Court Staff Members	54
B. Correction of Minor Typographical Errors in NCSC June 8 Draft Report.....	67

LIST OF TABLES

	<u>Page</u>
1. Juvenile Court Case Filings, 2002-2006.....	4
2. Days from Removal to Preliminary Hearing in Dependency or Neglect Cases.....	31
3. Days from Petition to Adjudicatory Hearing in Dependency or Neglect Cases.....	31
4. Hearing Date Continuances in Dependency or Neglect Cases	32
5. Frequency of Various Case Outcomes in Dependency or Neglect Cases	33
6. Days from Arrest to Detention Hearing in Delinquency Cases	35
7. Days from Arrest to Appointment of Attorney in Delinquency Cases	36
8. Days from Detention to Adjudicatory Hearing in Delinquency Cases	37
9. Days from Arrest to Adjudicatory Hearing in Delinquency Cases	37
10. Case Outcomes in Delinquency Cases	39
11. DMC Relative Rate Index for Shelby County	43

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We applaud the unwavering care and sincere concern shown by all of these people for the wellbeing of the children of Memphis and Shelby County and their families. We hope that this report will contribute to a successful ongoing effort for the Court and the County, in collaboration with all of the juvenile justice stakeholders, to provide the best possible array of juvenile court services.

This report was submitted in draft form on June 8, 2007, to the Shelby County Commissioners and the Juvenile Court. Staff members of the Juvenile Court reviewed the draft report, and they have offered the comments that appear as Appendix 1. Among their observations was the fact that the draft report had two recommendations with the same number. That and other minor typographical errors found in the draft report have been corrected in this final report. (See Appendix 2 for a list of corrections.)

I. INTRODUCTION

In April 2007, the Government of Shelby County, Tennessee (“the County”) engaged the National Center for State Courts (“NCSC”) to conduct a brief operational assessment of the Juvenile Court of Memphis and Shelby County (“the Court”). NCSC project team members made a one-week visit to Memphis for interviews with court representatives and other juvenile justice stakeholders, including some members of the Shelby County Commission. Topics they addressed included:

- Recent history of the court and specific divisions, including additions and expansions of programs and administrative/support functions.
- Staffing around certain programs and functions.
- Interactions and interfaces with external departments and agencies.
- Current challenges to timely, efficient and quality case processing and delivery of services, such as assessments and evaluations, drug treatment, mental health counseling, and other ancillary services.
- Customer service issues.

This report presents the results of the brief NCSC assessment. Overall, NCSC concludes that there are many praiseworthy elements in the operation of the Court. On the basis of the Court’s efforts to serve the best interests of children and families in Memphis and Shelby County, it has justifiably attracted national attention. At the same time, however, there are important issues and concerns that warrant attention. Included here are 26 NCSC recommendations to address those issues and concerns.

There are other more complex issues for the Court that cannot be given more than cursory attention here because limitations of time and budget. These include:

- The causes of disproportionate minority contact in the juvenile justice system;
- The adequacy of legal representation for juveniles in delinquency cases and children and respondent parents in child abuse and neglect cases;
- The appropriateness of placements and permanency planning in child abuse and neglect cases; and
- The quality of child support enforcement efforts.

While the interviews by the NCSC project team provided an opportunity to gather some preliminary perceptions about some of these issues, it is beyond the scope of this

study to provide any definitive analysis. We hope that the observations offered here will help the County and the Court to further refine the issues and identify information needs.

A. The Juvenile Court in General

The Juvenile Court of Memphis and Shelby County is one of 17 juvenile courts in the state of Tennessee that was created by a “Private Act” court. In these jurisdictions, a local act established the court as having specific juvenile jurisdiction. The remaining 81 juvenile courts in Tennessee are General Sessions Courts with juvenile jurisdiction. This Juvenile Court hears and has jurisdiction over all cases related to delinquency, unruly behavior, dependency and neglect, and parentage, including child custody matters, visitation, establishment of paternity, and child support orders.

The mission of the Juvenile Court of Memphis and Shelby County is to:

- Protect as well as correct and habilitate the child;
- Protect society; and
- Uphold the dignity of the law

The elected judge of the Juvenile Court is its presiding judge and also the executive director of its administrative components. The judge is assisted by a chief administrative officer, division directors, and other executive staff members. There were a total of 436.5 FTE positions budgeted for the Court in fiscal year 2006-07, and its budget for that period was \$32,250,988.¹ All of the Court’s divisions, the detention center, and the court clerk’s office are located at 616 Adams Avenue in Memphis.

B. Organization of the Court

The Juvenile Court is organized around four divisions: (1) judicial; (2) administrative; (3) court services; and (4) child support services. Following is a brief description of each division.

1. Judicial Division. This division includes the judge, a chief referee, and five other referees who, along with the chief legal officer, conduct all court proceedings. The Judicial Division also contains the Office of Chief Legal Counsel, Office of Advocate for

¹ Of the total budget for FY 2006-2007, \$12,823,418 was from the Shelby County General fund; \$11,893,417 was from the Department of Human Services; \$7,100,702 was from the Department of Children Services; and \$443,451 was from various grants and initiatives.

Non-Custodial Parents, Office of the Guardian Ad Litem, and the Juvenile Defender's Office (Public Defender). While the advocate for non-custodial parents, the guardians ad litem, and the juvenile defenders are listed under the Judicial Division, they are to function independently of the court in providing representation to children and parents. The Office of the Guardian Ad Litem and the Office of Advocate for Noncustodial Parents were both established in 2006.

2. Administrative Services Division. This division of the court is responsible for (a) development and administration of budget, contracts, and grants; (b) personnel services for court employees; (c) building maintenance; (d) procurement of supplies and equipment; (e) information and telecommunications systems; (f) support services; (g) volunteer services; and (h) interagency services.

3. Court Services Division. This division is responsible for delivering core services to the children and families that come under the jurisdiction of the Court, through its Youth Services Bureau; Detention Services Bureau; and Children's Bureau (which includes Protective Services and Corrective Services Departments). The division also includes separate offices for a victim-witness program, an outcome evaluation and performance improvement section, and an office of clinical services, which includes two units – evaluation and Referral and Assessment and Service Planning.

4. Child Support Services Division. This division serves as the Title IV-D agency of the Tennessee Department of Human Services for child support enforcement for Shelby County. The division assists Title IV-D recipients with establishing parentage and child support orders and enforcing those orders through the Court and through various administrative actions. The Child Support Services Division was not included in NCSC's review.

C. Caseload

Table 1 shows the caseload of the Juvenile Court for the five years from 2002 through 2006. In general, the number of cases declined in 2006 in comparison to previous levels. The most notable decrease has occurred in the number of unruly and runaway cases filed in the court. Dependency and neglect cases also decreased somewhat in 2006, following four years of steady increase. The number of delinquency cases has

fluctuated over time, but change has not been dramatic. A total of 12,680 delinquency cases came to the attention of the court in 2006 compared to the 13,121 referred in 2005 and a high of 13,312 in 2004.

TABLE 1. JUVENILE COURT CASE FILINGS, 2002-2006²

Case Type	Number of Cases per Year				
	2002	2003	2004	2005	2006
Dependency/Neglect	4, 133	4,372	4,870	5,081	4,658
Delinquency	11,713	11,275	13,312	13,121	12,680
Unruly and Runaway	4,595	5,050	5,495	3,141	1,602
Other*	810	1,299	1,182	1,341	1,124
Traffic	115	115	65	173	92
Totals	4, 133	4,372	4,870	5,081	4,658

*Includes custody, visitation, and exemptions from compulsory school attendance.

Of course, raw case numbers do not necessarily reflect the true workload of a court as they do not account for factors such as the complexity of the cases and case processing time. For example, according to the Juvenile Court's 2005 and 2006 annual reports, serious and violent crimes have continued to increase despite overall decreases in case numbers. From 2005 to 2006, serious and violent crimes increased by 1.5 percent, from 1,136 to 1,153. These types of serious and violent cases, by necessity and complexity of the charge, require more attention at all levels of the court. Similarly, federal and state requirements in dependency and neglect cases have generally increased the amount of judicial officer time devoted to these cases in most jurisdictions.

Court staff observed that the caseload and workload in the court remains high and the cases are more complex and time consuming. Some judicial officers commented that while changes in the number and nature of cases coming before the court have had an impact over time, they described the workload as manageable and believed they could handle future increases in the number of cases.

² Source: Juvenile Court of Memphis and Shelby County, *Annual Report* (2002 through 2006).

D. Notable Recent Developments

This section highlights some recent changes in programs, policies, and practices in the Juvenile Court. In the view of the NCSC project team, these are positive or promising developments for the court system and the children and families that the court serves. Some of these changes are very recent and instituted by Judge Person when he took the bench in September 2006. As a result, some are still “works in progress,” for which the ultimate results and impact cannot yet be appraised.

1. Legal Representation. Under Judge Person, the Juvenile Court has instituted a policy requiring that all juveniles appearing before the court on a delinquency charge are to be represented by counsel (court-appointed or private) and all children and custodial parents in eligible dependency and neglect proceedings are to be represented by counsel. The Office of the Guardian Ad Litem was created to coordinate and provide support to the panel of attorneys—guardians ad litem-- that provide representation to children. The Office of the Legal Defender, which has been in existence for more than 25 years, coordinates and provides support to a panel of legal defenders.

2. Assistance to Self-Represented Litigants. The Office of the Advocate for Non-Custodial Parents was created by Judge Person in 2006 to assist self-represented litigants. An experienced attorney is assigned to this office and is available to assist parents in understanding court procedure and selecting and completing the correct forms. The attorney does not give legal advice, is not in an attorney-client relationship with the individuals he assists, and does not represent individuals in court. According to the 2006 *Annual Report*, the office provided assistance to almost 1,000 litigants in the first four months of operation.

3. Customer Service. The Court recently created an “Ambassador” Program, which began operation during the week of the NCSC project team’s visit to the court. Ambassadors, wearing a maroon colored blazer with a Juvenile Court crest, will be present in the lobby of the court to welcome customers, provide directions to the appropriate courtrooms and offices for services, and answer general questions about the court.

4. Expansion of Programs in the Court Services Division. The Court Services Division has developed an impressive array of internal services, in addition to expanding

its outside service providers. Two of the newer components of the division are especially notable because they address important, but often underdeveloped, functions in juvenile court systems. Created in 2006, the Assessment and Service Planning Section of the Office of Clinical Services is responsible for coordinating and conducting mental health and substance abuse screenings of court-involved youth, more in-depth mental health and special needs evaluations of youth referred for evaluation and referral, and risk/needs assessments of youth placed in the custody of the Youth Services Bureau. It is also responsible for the generation of an integrative report to be used in Individual Program Planning.

After several years of planning and pilot testing, the Office of Outcome Evaluation and Performance Improvement was established in 2005. This Office increases the internal capacity of the court to objectively assess the effectiveness of intervention strategies, initiatives, and individual program approaches. An ongoing process of performance measurement and a focus on outcomes provides the means for a court to demonstrate the value of services delivered and build evidence-based requests for new initiatives and additional resources. The Office gathers and examines data relevant to the duties and activities of all the Bureaus of the Court Services Division.

5. Implementation of the Detention Assessment Tool (DAT). The Tennessee Commission on Children and Youth (TCCY) convened a stakeholder group in 2005 to develop an objective decision-making tool for use by juvenile courts to assist in detention decisions. A draft of the resulting “Detention Assessment Tool” (DAT) was pre-tested in Shelby County and formally implemented in January 2006. The DAT instrument is based on a point scale and considers the seriousness of the current violation, the number and seriousness of past violations, and other factors. To date, the Juvenile Court in this county has the only detention center in the state that is using the DAT to guide intake counselors to make objective decisions on secure detention pending a detention hearing. Admissions to the detention center have decreased by approximately 28 percent over that last two years, according to data presented in the 2006 *Annual Report*. The implementation of the DAT instrument is a positive step toward continuing to reduce the number of admissions and implementing the core strategies of the Juvenile Detention Alternatives Initiative.

6. Appointment of a Juvenile Court Advisory Council.³ A Juvenile Court Advisory Council was established by Judge Person in the fall of 2006. Its members include legislators and civic leaders, a county commissioner, attorneys who practice before the court, and representatives of various child welfare organizations and agencies and other institutions. The stated purpose of the Advisory Council is to advise the Juvenile Court on the special needs of the community in relation to the functions and services of the court system. The council has met twice and plans to meet quarterly in the future.

³ See below in this report for a recommendation on expanding the scope of stakeholder participants to participate in a collaborative effort with the Court.

II. REVIEW OF STRUCTURAL AND ORGANIZATIONAL ISSUES

During the visit of the NCSC project team to Memphis, we encountered certain structural and organizational issues. They include (a) case assignments to judicial officers; (b) juvenile defenders; (c) guardians ad litem; We discuss each of these issues in this section.

A. Case Assignments to Judicial Officers

Each of the referees has a mix of dockets; that is, there is not specialization by case type. However, the referees observed that they all have their “niche” or dockets that they prefer. For example, one referee who worked in the Child Support Division before taking the bench in 2006, is primarily handling child support dockets at the present time. All appeared to prefer the mixed dockets and expressed the view that the system of calendaring prevented burn out and kept them more alert and focused on the child and family before them.

The current system of case calendaring appears to function efficiently for the court, and more importantly, with the exception of the detention hearings, provides for one judicial officer to preside over a case from beginning to end. However, best practices in the area of calendaring for juvenile and family law cases suggest that a system based on the “one-judge/one family concept” makes it more likely that decisions will be made in the best interest of the child.⁴ When a single judicial officer hears all matters related to a single family, they gain knowledge of the family’s circumstances and their past response to court orders, are able to identify behavior patterns, and can help to ensure there is consistency and continuity in court orders and case plans.⁵ One-judge/one family also helps to minimize the number of times a person is required to appear in court because it allows for multiple cases for one individual or family to be heard together. It is the responsibility of the judicial officer to ensure that all cases receive due process, and judicial officers are trained to hear evidence impartially even when they have heard previous cases regarding the same youth/family.

⁴National Council of Juvenile and Family Court Judges, *Resource Guidelines, Improving Court Practice in Child Abuse and Neglect Cases* (1995), p. 19.

⁵ Ibid.

Recommendation 1. The Juvenile Court should assign cases to judicial officers under a one family/one judge case assignment system.

One juvenile court referee should handle the delinquency, abuse and neglect, and other matters before the court on all members of one family from the beginning to the end of all court processes. It is NCSC's opinion that such a change in docketing procedure is at the discretion of the court and does not require any statutory changes. The Juvenile Court of Nashville and Davidson County implemented a court-wide one family/one judge docket system in 2004.⁶ The objectives of that effort were to improve the process of assigning and disposing of cases and decrease caseloads. In Davidson County, the one family/one judge system extends beyond judicial officers and includes probation staff and intake personnel in a singular involvement of court staff with families. Additionally, agencies outside of the court such as the district attorney, the public defender, the Department of Children Services, and other agencies involved in the Juvenile Court system honor the one-family one-judge system.

B. Office of the Juvenile Defender

Legal representation is provided by the Juvenile Defender to juveniles detained for acts of delinquency (felony and misdemeanor) as well as for those charged with truancy, unruly behavior, or for those in need of parentage determination hearings. The juvenile defender's office works directly with the Office of the Shelby County Public Defender to provide continued representation in cases that are transferred to adult court. The juvenile defenders are also appointed to represent indigent adults, both incarcerated and walk-ins, which are charged with contempt of court for failure to pay child support, failure to comply with parental visitations orders or for failure to comply with other orders of the Juvenile Court.

1. Staffing. The juvenile defender's office is staffed by one coordinating attorney and 14 private attorneys are currently on the panel. All attorneys are licensed to practice law in the State of Tennessee and were described as having significant experience in practice of criminal, juvenile, and civil law. The coordinating attorney manages the

⁶ See Richard Van Duizend, et al., *Performance Audit of the Davidson County, Tennessee Juvenile Court System* (Denver, CO: National Center for State Courts and Matrix Consulting Group, 2006).

scheduling of attorneys and monitors the availability of panel members, participates in the selection of new members, provides orientation and training materials, and assists in the processing of applications for payment. Until recently, the coordinating attorney was herself a member of the panel of juvenile defenders, but she ceased providing legal representation in these cases in 2007.

2. Levels of Representation. It is the current policy of the Juvenile Court that all youth in delinquency cases have legal representation. Statistics provided by the Court indicate that, in 2006, representation was provided in 100 percent of the eligible cases, with 89 percent of the juveniles having appointed counsel and 11 percent retaining private counsel. The case file review conducted by NCSC showed that counsel was appointed in 45 (59%) of the 76 judicial cases reviewed and a private attorney was retained in eight (11%) of the cases. The sample of case files included cases that had been filed over several years and some may have pre-dated recent efforts to enforce the stated policy of the Juvenile Court. It is also possible that documentation of the appointment or employment of private counsel was missing.

3. Appointment and Quality. In addition to ensuring that legal representation is provided, it is important that the appointment process is timely and that active representation begins at the earliest point possible, preferably before the detention or initial hearing. NCSC understands that it is the policy of the court to have counsel appointed prior to the initial hearing. Data from the case file review indicates that in the 38 instances where there was a recorded arrest and an attorney appointed, approximately 40% of the appointments were within 10 days of the arrest. Approximately 29% of the appointments did not occur until 21 to 50 days following arrest.

NCSC did not have an opportunity to speak to any individual attorneys who serve on the panel of juvenile defenders to gain their perspectives on caseload/workload, training, available resources, and compensation. The attorneys were described as experienced and diligent by the coordinating attorney, and another stakeholder commented that the attorneys were specialized and had a good knowledge of the law and juvenile placements. The number of available attorneys was also described as adequate, although the addition of one or two more attorneys would be welcome. Other stakeholders expressed that more qualified and effective attorneys would also be

welcome. It was noted that there is not an organized juvenile bar in the county, and some attorneys do not know the system. It was reported that most of the panel attorneys have a criminal practice in addition to their work as juvenile defenders, and that the level of compensation was a barrier to both recruitment and improving the quality of representation.

4. Recommendations. The NCSC project team offers two recommendations relating to the provision of juvenile defender services.

Recommendation 2. There should be exploration of methods to monitor and measure the quality of service each juvenile defender is providing.

While it is not unusual for comments or protestations to be made concerning inadequate representation by a public defender, appointed counsel, or even a private attorney, it is important to have objective mechanisms in place to evaluate juvenile defender performance over time. It is incumbent on the juvenile justice system in Shelby County to make sure that juvenile defenders are appearing as scheduled and on time, are prepared, call all of the witnesses present on behalf of their client, present the best defense, and obtain the best disposition of the case for their client. This information can be obtained by observation, review of case records, informal discussions with the referees and probation staff, and management information system reports. NCSC notes that the materials the office provides to panel attorneys include reference to the NCJFC definition of what it means to be a “qualified” and “effective” attorney for formal delinquency cases and this may be a starting point for developing specific performance measures.⁷

With the increased emphasis on ensuring that juveniles have legal representation for all eligible proceedings, it will be important to monitor caseloads and assess the need to expand the panel or the resources available to panel attorneys. The current system of assignment whereby specific attorneys receive cases through a rotation system by month/day of week of the case filing would appear to keep caseloads reasonably balanced over the long term and should result in timely appointments.

⁷ See NCJFCJ, *Juvenile Delinquency Guidelines* (2005).

Recommendation 3. The Juvenile Court judge, the Shelby County Public Defender, and representatives from the Shelby County Commission should consider what level and deployment of resources would be needed for the Public Defenders Office to provide and supervise juvenile defense attorneys.

The Office of the Juvenile Defender has been located within the judicial division for more than 25 years. While no concerns about the operational effectiveness of the Office of the Juvenile Defender or its independence from the court were expressed to NCSC, there is a concern that the juveniles before the court, their families, and the wider community may perceive the current arrangement as a conflict of interest, and, further, that appointed counsel will not represent the best interests of the juvenile, but rather the interests of the “system.” The Juvenile Court is understandably concerned that any attempt to undo this long-standing arrangement (for example, shifting responsibility for representation to the Public Defender) will negatively impact juveniles’ timely access to qualified and effective representation. There are also questions about how any new arrangement would affect the state funding mechanism for appointed counsel fees.

Recommendation 3 does not reflect concern about the operational effectiveness of the Office of the Juvenile Defender or its independence from the court. It does reflect the concern that the juveniles before the court, their families, and the wider community may perceive the current arrangement as a conflict of interest, and, further, that appointed counsel will not represent the best interests of the juvenile, but rather the interests of the “system.” During discussions on site, the Juvenile Court appeared willing to discuss the option of the program being moved to the Public Defender if timely assignment, availability of attorneys, and the level and quality of service can be maintained. In turn, the Public Defender would have to determine if the program could be shifted to that office and what it would take to maintain current levels of service. The County Commission would have to determine how it would be funded. These issues and others will need to be researched and discussed over time and detailed agreements reached and reduced to writing before such a move can occur.

C. Guardian ad Litem Office

The Office of the Guardian Ad Litem and the position of coordinator were created by Judge Person in 2006 to ensure competent legal representation for children in the cases in which it is required and to comply with federal and state laws as well as court policy and procedure. The creation of the office signaled a change in the previous policy of the Juvenile Court regarding the appointment of counsel for minors. Due to what was described as “a different interpretation of the statutes,” counsel was not routinely appointed for children in dependency and neglect cases in the previous administration. It is now a statutory requirement and the stated policy of the Juvenile Court that a guardian ad litem – a licensed and appropriately trained lawyer appointed by the Court to advocate for the best interest of a child – is to be appointed in all proceedings where:

- The child has no parent, guardian or custodian appearing on the child’s behalf;
- The child’s interest may conflict with those of parent, guardian, or custodian;
- The child is alleged to be abused;
- The allegation of harm made falls within the mandatory child abuse reporting laws, or
- The proceeding is a contested termination of parental rights proceeding.

The Office of the Guardian ad Litem is also charged with serving as a liaison between guardians ad litem, other attorneys, the Tennessee Department of Children’s Services, departments within Juvenile Court, and other private and governmental agencies to promote best practices and policies in dealing with affected children. The Attorney Coordinator also recruits attorneys to serve as guardians ad litem, ensures that they receive the training required by TCA §37-1-149, and provides them with educational materials, such as Supreme Court Rule 40, which contains guidelines on the in-court and out-of court responsibilities and duties of a GAL, practice tips, and “hearing checklists” adapted from NCJFCJ’s *Resource Guidelines*.

According to the Juvenile Court’s 2006 annual report, approximately 1,000 guardians ad litem were appointed in 2006. The NCSC review of 101 dependency and neglect case files indicated that a guardian ad litem was appointed in only 47 percent of the cases. However, many of the cases reviewed pre-dated the change in policy regarding appointment made in the fall of 2006. It may also be that documentation of appointment is missing or unclear in the cases that pre-date the change in policy. NCSC understands

that attorneys for children are now appointed at the time the petition is filed rather than at the initial hearing as was previously the practice.

The Juvenile Court has also instituted a policy of 100% representation for custodial respondent parents in dependency and neglect cases. The case file review suggests that this was an area in need of improvement. In the 101 files reviewed by NCSC, the respondent mother was appointed counsel in 22% of the cases and the respondent father was appointed counsel in 3% of the cases. Again, the cases included in the review pre-date the new policies and may not be an accurate reflection of current practice.

The commitment to providing legal representation to children in all eligible cases and the creation of the Office of the Guardian Ad Litem to coordinate the effort are very positive developments for the Juvenile Court. The attorney coordinator has already taken steps to ensure that the panel attorneys receive the training and materials they need to provide an effective level of representation and has extended these efforts to attorneys serving as respondent parent counsel. It appears the specific orders of appointment are now being prepared and should be entered in the court file. The effort to have attorneys appointed before the initial hearing is also a positive step and is in line with best practices in the area (NCJFC, *Resource Guidelines*, 1995). Despite the mixed results of the case file review, the Juvenile Court appears to be moving forward on full implementation of the stated policy on Guardians Ad Litem. Attorney caseloads and recruitment may be issues as the program progresses.

As with the Office of the Juvenile Defender, the placement of the Office of the Guardian Ad Litem under the judiciary raises the issue of the perception of a lack of independence and a conflict of interest. Again, the issue is one of perception and the impressions of the individuals who come before the court as well as the wider community.

Recommendation 4. The efforts by the Office of the Guardian Litem to implement the policy of the Juvenile Court regarding appointment of GAL's, recruitment of attorneys, and provision of training and other resources to panel attorneys should be encouraged and expanded. In these and other efforts, the office should continue to take advantage of the accumulated knowledge on best practices and innovative programs that have been documented through the federal

and state-level court improvement programs and guidelines promulgated by organizations such as the National Council of Juvenile and Family Court Judges and the National Association of Counsel for Children.

In recent years, court improvement programs have paid increased attention to the issue of legal representation for children and respondent parents in dependency and neglect cases. In addition to the progress reports submitted by each state program and the required reassessments, there have been several studies specific to GAL's and respondent parent counsel. As a result, there is more information on training requirements and training programs, recommended caseload and practice standards, practices for ensuring the early, continuous, and active participation of counsel, and alternative models for the organization and compensation of attorneys. While not all of the recommended and promising practices and programs will "fit" the unique circumstances and needs of the Juvenile Court, they can serve as a source of ideas as well as "lessons learned."

Recommendation 5. The Office of the Guardian Ad Litem should explore methods to monitor and measure the quality of service each GAL is providing.

By virtue of the position, the Attorney Coordinator presumably already receives complaints and comments on the adequacy of representation. While the effort to establish the office and immediate responsibilities may preclude intensive involvement in evaluation at this point, the Attorney Coordinator should consider some of the same methods for evaluation as proposed in Recommendation 2 above for legal defenders; that is, observation, interviews with stakeholders, and review of files and management information system reports.

D. Office of the Advocate for Noncustodial Parents

The Office of the Advocate for Noncustodial Parents was also created by Judge Person soon after he assumed the bench in 2006. The purpose, as stated in program materials, is to ensure that all parents seeking services of the Juvenile Court in the best interest of their children are afforded all assistance that can be provided. The creation of the office recognizes the increase in the number of self-represented litigants in the court

system, a trend that has been experienced in many courts nationwide, especially in family law matters. The office is currently staffed by one attorney with 20 years of experience in private practice. This attorney assists parents with legal issues and forms, but does not have an attorney-client relationship with the parties. Based on interviews conducted on site, the creation of the office and its provision of services have been well-received in the court and wider community. According to the Court's 2006 annual report, the office provided services to almost 1,000 clients in the four-month period from its creation in September 2006 to the end of the calendar year, and there is interest in expanding operations.

The creation of the Office of the Advocate for Noncustodial Parents is a positive development for the Juvenile Court. As noted, many courts have faced the challenge of meeting the needs and expectations of self-represented litigants as their numbers have increased. Courts have responded in various ways including the creation of self-help centers with extensive printed materials and videos and informational websites. These innovations have been a beneficial and important component of an overall response. As some commentators have noted, however, for some types of cases and some litigants, in the end there is no substitute for person-to person assistance.⁸

Still, the goal should be to provide an environment for self-represented litigants that integrates user-friendly information and forms with personal help. Resources will always constrain how many law-trained individuals can be available to assist litigants directly, and some unrepresented litigants can navigate the system on their own if forms, instructions, "how-to" guides, and other information are easily accessible.

The Juvenile Court distributes a 50 page pamphlet entitled *Your Juvenile Court* which provides information and laws pertaining to children and the juvenile court. The booklet contains an overview of the court, a description of the court process, a listing of relevant laws, and definitions of key terms. While it is a good source of information for the public and would be helpful to self-represented litigants, there is also a need for more straightforward materials that explains the steps and documents needed, what will happen at each hearing, and so forth, without getting involved in statutory language and other

⁸ See Richard Zorza, *The Self-Help Friendly Court: Designed from the Ground Up to Work for People Without Lawyers* (Williamsburg, VA: National Center for State Courts, 2002).

legalese. NCSC is aware that the state Court Improvement Project has developed and distributed a *Handbook for Parents and Guardians in Child Abuse and Neglect Cases* which is a step-by-step guide in lay terms.

The Juvenile Court's website contains links to information on the various divisions and offices of the court, hours of operation, a link to the court's forms and filing tips, and a set of FAQs. There is no specific link to organized, self-help information.

Recommendation 6. The Juvenile Court should build upon the experience gained from the operation of the Office of the Advocate for Noncustodial Parents and develop a plan for bolstering the informational component of self-represented assistance. The Court should seek the input of the bar, potential contributors of information, and the community on the direction and form of this effort.

It may take more cumulative experience with the Office of the Advocate to determine the balance between one-on-one assistance and information, as well as options that may fall in between. An excellent resource for background information on successful programs and their requirements is *Best Practices in Court-Based Programs for the Self-Represented: Concepts, Attributes, and Issues for Exploration*, distributed in 2006 by the Self-Help Support Network, created under a State Justice Institute grant awarded to NCSC.⁹

E. Probation Services

In Tennessee, county-level juvenile probation officers must have 60 semester hours or 90 quarter hours in criminal justice or social services courses. This education requirement is not mandated by law, but is a regulation of the Tennessee Commission on Children and Youth (TCCY), which distributes a state supplement to each court that follows these guidelines. Probation Officers are not professionally certified. However, the Tennessee Council of Juvenile and Family Court Judges (TCJFCJ) and the Tennessee Juvenile Court Services Association (TJCSA) train probation officers. According to TCCY policies, courts must meet minimum training requirements to receive a state supplement. An officer must receive 40 hours of training in the first year and 20 hours of

⁹ See <http://www.selfhelpsupport.org/index.cfm>.

training annually thereafter or 15 hours if the county has more than one officer on staff and one is a supervisor. The supervisor has to receive 20 hours of training a year.

Although the Auxiliary Probation Services unit is under Administrative Services it is included in this discussion because certain issues surrounding the program are the same as for the probation officers within the Court Services Division. The Auxiliary Probation Service was created in 1965 using trained community volunteers to provide hands-on supervision of juveniles on probation in Memphis and Shelby County.

Auxiliary Probation Officers or APOs provide 100 percent of field supervision for the Court. The Auxiliary Probation Officers have two phases of training: (1) nine hours of classroom training based on *APO Officer Manual* followed by a take-home test and (2) supervision by a training chief for four to six months. The *Officer Manual* delineates the duties of officers and the processes and requirements for supervision and preparing and submitting progress reports.

Despite these requirements and provisions applicable in Shelby County, NCSC found a lack of common uniform knowledge of what good probation consists of or good probation philosophy for those working in probation. It therefore appears that further attention is needed in the area of probation training.

Recommendation 7. The Court should review its orientation and training program for all probation staff, paid and volunteers, in view of the *Desktop Guide to Good Juvenile Probation Practice*.

A widely influential desk reference and training resource, the *Desktop Guide to Good Juvenile Probation Practices* has served the field well as a comprehensive treatment of theory and practice of juvenile probation, a handy collection of standards and best practice information, and a text and starting point for a widely used fundamental skills training curriculum. First published in 1991 and revised in 2002, the Desktop Guide presents the vision of accomplished juvenile probation administrators, supervisors and officers, victim advocates and researchers, that good juvenile probation practice should be driven by its mission, based on its performance, and focused on outcomes.¹⁰

¹⁰ The Desktop Guide can be ordered in hard copy from the National Center for Juvenile Justice (NCJJ). It can also be downloaded in electronic format from the NCJJ website at <http://ncjj.servehttp.com/NCJJWebsite/publications/azlist/d.htm>

Recommendation 8. The Court should develop guidelines on what information should be presented to the judicial officer and contained in the intake interview and the information and recommendation at the dispositional hearing.

In reviewing the files we found that the information in the social files and legal files lacked depth as to why the juvenile is before the court and what needs to be done so that they are not back before the court in the near future.

Recommendation 9. The Court should adopt a risk assessment instrument that has been validated in a comparable jurisdiction and permits probation officers to identify strengths, needs, and protective factors.

One size should not fit for all youth on probation. A risk assessment instrument helps the paid and volunteer probation officer know where to spend the most of his/her time. The offender's strengths and protective factors should be incorporated into a solid case management strategy.

F. Detention Center

In a tour of the Court's detention facility, the NCSC project team members found it to be orderly and unusually clean for a juvenile detention center. Recordkeeping was good; the use of room restrictions and the limited use of the restraint chair were well documented. Having access to the services of the Office of Clinical Services to perform assessments and evaluations for mental health, substance abuse, and other special needs is definitely an asset. The implementation of the DAT is a positive step toward reducing the number of admissions and implementing one of the core strategies of the Juvenile Detention Alternatives Initiative. However, the detention center lacks a meaningful education program and more attention needs to be paid to age and cultural appropriateness.

Recommendation 10. The Shelby County Commissioners and the Juvenile Court Judge should meet with Memphis public school officials to develop and implement a curriculum under which a minimum of six hours of classes would be taught by a special education teacher for each child in detention each day that the

Memphis public schools are in session, with remedial classes during the summer school session.

The juvenile detention center lacks a meaningful education program. Since the detention center is located within the Memphis School District, and since most of the students are enrolled or should be in the Memphis schools, the education program should be provided at no cost to the county or the court. This would be a wonderful opportunity to provide remedial work for student who usually are having a rough time in school and who are hurt most by not being in school.

Recommendation 11. The Detention Center should either work with the Shelby County library system to have age- and sex-appropriate reading materials available to the youth in detention, whether through a “book mobile” or through the development of a detention reading library by means of purchases or donations.

Despite the detention setting you work in, you must have control before you can have treatment. Control may or may not lead to good programming, but *good programming always leads to good control*. Juvenile detention centers that have programmed activities and things for youth to do have less behavior problems. That is why a good education program and a good library are important. Here are some simple suggestions:

- Work with the library system and determine what books are of interest for the youth that are in detention.
- Be aware of the reading preferences and interests based on the age, gender and ethnic heritage of the youth that are in detention.
- Be aware of books that value and promote cultural awareness, sensitivity and that can educate as well as entertain the youth.

Sometimes libraries have sales of used books and they may be willing to donate some books to the Juvenile Detention Center. Civic clubs may also give assistance on the purchase of books for detention.

Recommendation 12. The Court and the juvenile detention center should explore certification by the American Correctional Association (ACA).

Certification by ACA is difficult, and the Shelby County juvenile detention center may not meet the ACA Standards. However, participation in the ACA certification process will provide the facility with information about a number of valuable training, record keeping, programming, security and other relevant issues.

III. MONITORING THE STATUS OF CASES AND MANAGING THEIR PROGRESS

A core function for the Juvenile Court is to seeing that cases proceed to just outcomes in a timely manner. Within the time and budget constraints of this project, it was not possible for the NCSC project team to investigate the details of case processing workflow or to assess information technology in use to monitor and manage cases. While we therefore present only a brief overview here of case processing workflow, we do offer suggestions based on our observations for improvement of the automated case management information systems of the court.

The main part of this chapter presents the results of an assessment by NCSC project team members of a small sample of recently-concluded dependency/neglect and delinquency cases. The chapter concludes with a brief discussion of disproportionate contact with the juvenile justice system by children from Shelby County's African-American community.

A. General Overview of Case Processing Workflow

The Juvenile Court has developed a fairly high level of specialization and division of labor in its organizational structure and within its bureaus and individual units. NCSC reviewed flow charts and other documents for several units that detailed the process steps for cases at that stage and also placed the unit's processes with the larger court process. In general, there is very extensive and comprehensive documentation of policies and procedures in the system. The specialization and defined procedures help to ensure an effective case flow and work flow process. Interviews did not surface any significant problems with redundant procedures or paper work/data entry requirements, bottlenecks caused by delay in certain units, or difficulty in having a case docketed for a hearing.

The intake function is performed by the Children's Bureau through its Corrective Services Department for delinquency and unruly cases and Protective Services Department for dependency and neglect cases and custody and visitation matters. Intake counselors determine the legal sufficiency of complaints and petitions and make the

determination whether a case will be handled by nonjudicial or informal means rather than judicially. Non judicial means include consent decrees. If a case is to proceed judicially, it is docketed for a hearing by the intake counselor. Petitions alleging abuse, neglect, or dependency are first referred to the Department of Children's Services for an investigation. Intake counselors are responsible for notifying parties of their right to counsel in eligible cases and for notifying the appropriate parties of hearings. It is the policy of the court that legal defenders be appointed prior to the initial hearing in delinquency cases and that guardians ad litem be appointed prior to the preliminary hearing. Information on that process is presented elsewhere in this report. The procedures defined for the intake process reflect recommended practices in several areas: early decisions to divert from the formal court process, immediate setting of a court date and sufficient notice of hearings, and timely appointment of counsel in eligible cases.¹¹

Detention intake is governed by its own specific intake procedures which are documented in the *Detention Policy and Procedure Manual*. Decisions on whether to detain are made based on the Detention Assessment Tool (DAT). The Office of Clinical Services provides screening and assessment services to youth who are detained.

The Probation Section of the Corrective Services Division conducts pre-sentence investigations and provides case work services in delinquency cases. Youth who are adjudicated delinquent and placed on probation are supervised by volunteer auxiliary probation officers. Youth who are adjudicated as delinquent and in need of supervision and out-of-home placement are committed to the Youth Services Bureau. The Office of Clinical Services provides screening and assessment services to the Youth Services Bureau to assist in placement decisions. The Youth Services Bureau

Case work services in neglect and dependency cases are provided by the Department of Children's Services (DCS). A Court-Appointed Special Advocate (CASA) may be appointed by the court to investigate the case and provide findings and recommendations to the court either before or after adjudication. Foster Care Review Board members conduct the mandated periodic reviews of the cases of children who are

¹¹NCJFDCJ, *Juvenile Delinquency Guidelines* (2005), p.. 69.

in DCS custody or private placement and provide written reports and recommendations to the court.

B. Information Systems for Monitoring Case Progress

It was beyond the scope of this review to do a detailed study of the court's management information system in terms of its overall functionality and ease of use. Time did not allow NCSC project team members to interview users at all levels of the court system to gather their opinions of the system or document its role in their day-to-day work. However, based on the interviews conducted and a review of documentation and management report, NCSC is able to make some observations and recommendations.

The Court's management information system (JCS32) is a "SofTec" product which was customized for the court and continues to be developed as needs change. The clerk's office has a separate system. Some key staff members in the clerk's office have access to JCS for inquiry purposes. The systems are not linked, however, and transactions completed in the clerk's office (such as taking payment) will not automatically show up in the appropriate file in JCS.

The management information system appears to be well integrated into the case processing system of the court. The Court's administrative manual and procedural manuals of the different units generally include JCS data entry instructions in tandem with each procedural step and reference relevant JCS summary reports that the staff person should access at specified steps. There are reminders to make corrections in JCS when certain events occur. Copies of the JCS intake screens are included in social files to provide the basic information on the case. In some courts, data is entered into an MIS system, but staff members still rely on paper documents; yet this does not appear to be the case in the Juvenile Court in Shelby County.

Based on the number, diversity, and detail of JCS-generated reports received by NCSC before the site visit and while on-site, the JCS system allows for comprehensive case and case event data collection. The ability to develop standard caseload and management reports and customized reports on-demand also appears to be quite good. This may be due, in part, to the skills and knowledge of the MIS Manager, who answered numerous questions and generated customized reports for NCSC while on-site. Reports

on the usual variables of interest to courts—number of referrals, number of dispositions, and so forth—can be generated at different levels of detail and for any time period. Court managers receive reports that update them on the status of the cases for which they are providing services as well as summary reports of activity each month. There is also comprehensive coverage; for instance, detailed reports are generated on the activity and results of the foster care review boards and the work and caseload of auxiliary probation officers.

Most of the reports NCSC reviewed were what could be termed “inventory” reports and they serve an important management function. For active case management, however, “exception” reports can be especially useful. For instance, a report is generated each day which alerts the Detention Bureau and other court staff to cases which have exceeded the “ten judicial days in detention” rule imposed by Judge Turner. Similar types of reports could be generated for other situations where cases need to be monitored closely; for example, reports which list the in-custody neglect and abuse cases which are approaching the 30 day time limit for adjudication or cases where a GAL attorney has not been appointed. The important point is that the focus is on the “exceptions” so that judicial officers and court managers can easily identify cases that require attention for one reason or another. Reports that provide a summary of the overall timeliness of case processing and time between case events can also help judicial officers and court managers to identify points of delay in the process and diagnose the causes.

Recommendation 13. The Court should look at ways in which information technology changes can promote enhanced effectiveness and efficiency in day-to-day operations. Specific areas where changes are warranted include the following:

- **Given the significant role of the clerk’s office in the overall operations of the Juvenile Court, consideration should be given to developing capacity for automatic electronic exchange of information between the clerk’s office information system and the Court’s case management system (JCS). For example, transactions completed in the clerk’s office (such as taking payment) should automatically show up in the appropriate file in JCS.**
- **There should be more emphasis on caseload management in the development of routine reports, including exception reports, for**

the Juvenile Court. The Court should Survey users as to the types of reports they find most useful.

- **The Court should ensure that the JCS system can support the increased emphasis on outcome evaluation and performance measurement.**

As part of any effort to implement information technology changes such as those suggested here, the Juvenile Court should look closely at its day-to-day business processes to streamline case processing workflow and make optimal use of the capacity of information technology.

The day-to-day work processes typically employed in a clerk's office, a courtroom, or the chambers of a judge or referee may have been initially developed to accomplish specific tasks when the court had a relatively small number of cases and customers. Giving attention to these business processes in the Juvenile Court is a way for court leaders and managers dealing with changes in information technology to see that the court makes more efficient use of finite resources and is more effective in serving citizens as customers, thereby promoting greater public trust and confidence in the judicial branch of government.¹²

C. Abuse and Neglect Cases

In reviewing abuse and neglect cases in the Shelby County Juvenile Court, NCSC examined qualitative and quantitative qualities of the record. From a qualitative perspective, the reviews wanted to know whether the records indicated that justice was served. That is, could the reviewers understand what happened in a case? From a quantitative perspective, the timeliness of hearings, the frequency of representation for the child and the parent, and the frequency of delays were collected.

NCSC reviewed 101 files identified as abuse and neglect cases. Of these, 68% coded were dependency and neglect cases; 6% involved physical abuse of the child, and 24% involved termination of parental rights. There were 7% of the cases that had insufficient or missing data to determine the case type. Gender data was collected on 99

¹² See David Steelman, *Court Business Process Enhancement Guide* (Sacramento, CA, and Williamsburg, VA: Search, Inc., and NCSC, prepared for the Joint Technology Committee of the Conference of State Court Administrators and the National Association for Court Management, May 2003), available online at http://www.ncsconline.org/WC/Publications/KIS_ReengiBPEGuide.pdf.

of the 101 cases, and the gender mix was almost equal with 51% male and 48% female. Race was also collected on 99 cases with 84% African American, 13% Caucasian, and 1% other.

1. General Observations. Overall, the case files were consistent, that is, all files contained the same information and all the information appeared to be present. It was, however, difficult to follow what happened in the course of the proceedings. It does not appear that the court made independent findings of fact based on evidence provided, as orders were boilerplate and quoted verbatim the allegations from the petition. From the case files it is not possible to determine what evidence, if any, was presented to substantiate the allegations of the petition. The dates and times of the hearings were generally not recorded, therefore it was difficult to determine if hearings were being conducted in accordance with guidelines of the Adoption and Safe Families Act (ASFA) or the best practices set forth in the *Resource Guidelines* published by the National Conference of Juvenile and Family Court Judges (NCJFCJ). The reviewers were forced to assume that the date of the order was the date of the hearing, which may or may not have been accurate.

Recommendation 14. Without compromising any appropriate confidentiality requirements, the legal files kept by the clerk's office for dependency and neglect cases should present a full and accurate summary of the factual grounds for the court's jurisdiction, the nature and dates of all court hearings, the judgment of the court and its factual basis, and the nature and dates of all post-judgment proceedings.

The primary purpose of any court is to do justice in individual cases. Other important purposes of courts are (a) to *appear* to do justice, so that the public can have trust and confidence in the courts; (b) to protect against arbitrary use of government power; and (c) to keep a public record of decisions affecting the rights and status of individuals.¹³

The clerk's office legal files represent the official record of the proceedings of the Juvenile Court. When the court has found a child delinquent, dependent or neglected, or

¹³ See Barry Mahoney, et al., *Planning and Conducting a Workshop on Reducing Delay in Felony Cases, Volume One: Guidebook for Trainers* (Williamsburg, VA: National Center for State Courts, 1991), Part 2, Unit P2.

has made other significant decisions affecting the freedom and legal status of a child or family, it is important that its records show that the court had jurisdiction, conducted proceedings in accordance with the law, and had appropriate grounds for its actions.

The NCSC project team found no specific indication in any case that the court had acted improperly in any of the cases for which it reviewed files. Yet those files did not demonstrate that the purposes of the courts have been met for juveniles in Shelby County.

2. “Reasonable Efforts” and “Contrary to the Welfare” Determinations. For any child committed to state custody, Tennessee law requires that a juvenile court must find whether reasonable efforts have been made to prevent removal from the home. TCA. §37-1-166. In the Shelby County case files reviewed by the NCSC project team, reasonable efforts were cited when a child was removed from the home and a preliminary hearing was held to determine whether the child should remain out of the home. In all, reasonable efforts were discussed in 25% of the cases.

ASFA requires that a “contrary to the welfare of the child” finding be made in the first court hearing after removal of a child from the home, and that the court provide the factual basis in its order including such a finding. In the Shelby County cases reviewed by NCSC, a finding that remaining in the home was contrary to the welfare of the child was found in 19% of the cases. It was not possible for the NCSC project team to determine from a file review whether discussion of these issues actually took place, and case files did show the factual basis for such findings.

Recommendation 15. The Juvenile Court must continue its efforts to assure that its case files reflect requirements of the law bearing on “reasonable efforts” and “contrary to the welfare” findings.

NCSC is aware that Shelby County may not be the only jurisdiction in Tennessee where improvements might be made in this area.¹⁴ The NCSC project team also understands that the Juvenile Court is taking steps to assure that “reasonable efforts” and “contrary to the welfare” determinations are being made as required by law. It seems clear that the court’s records must be more consistent in showing the factual basis for “contrary to the welfare” findings.

¹⁴ See Nyasha Justice and Leslie Kinkad, *A Reassessment of Tennessee’s Judicial Process in Foster Care Cases* (report to Tennessee Supreme Court, June 2005, pp. 41-44).

This matter is another reflection on the quality of the file and whether the court gives the appearance of doing justice, as addressed in the previous NCSC recommendation. Having the file accurately reflect what transpires in the courtroom and having the required standard language in the orders as a finding and not just as a boilerplate phrase is a powerful method of showing that justice was served.

3. Representation by Counsel. Another aspect of court proceedings that reflects fairness and justice is the presence of counsel for all parties. This is much more a quantitative determination and the reviewers relied on notations in the file as to who was present at the proceedings, whether counsel was appointed by the court, or whether private attorneys were employed. In the 101 files reviewed by NCSC, the respondent mother was appointed counsel in 22% of cases; respondent father in 3% of cases, and a GAL was appointed in 47% of the cases.

NCSC was informed that practices regarding the appointment of counsel has changed within the last year and that a GAL is appointed in every case. This was not the practice prior to September 2006, and many of the cases reviewed pre-dated the practice of a GAL in every case. The case files do not indicate that parents who refused counsel signed a waiver; therefore, it was difficult for NCSC to determine whether the number of parents with counsel is low because parents refused counsel or because they were not offered counsel. In only one instance did the record show that a parent hired private counsel.

Recommendation 16. For every abuse or neglect case, Juvenile Court case files should indicate whether there has been a determination of eligibility for representation at public expense; whether legal counsel has been appointed, waived or privately retained; and whether a GAL has been appointed. Case files should show the names of all attorneys in cases and who they represented, as well as the names of GAL's and any withdrawals by legal counsel.

In this study, NCSC has been asked by the Shelby County Commissioners to “assess whether adequate legal representation for litigants was provided.” Even more basic than the substantive adequacy of representation by any lawyer or GAL is the question whether legal representation has been provided at all. It is important for case

files to show either (a) that parties were in fact represented by counsel, or (b) that they have affirmatively made a knowing, intelligent and voluntary waiver of counsel.

4. Case Processing Timeliness. NCSC also collected data on timeliness in terms of the length of time between significant events and the number of continuances. When a child is removed from the home a preliminary hearing must be held to determine if the child should remain out of the home. Rule 6(c) of the Tennessee Rules of Juvenile Procedure (TRJP) requires that a preliminary be held no later than three days, excluding non-judicial days, after the child is removed from the home. The NCJFCJ Resource Guidelines suggest that the preliminary hearing be held within 72 hours of removal of the child from the home, which is in accord with the time frame specified by TRJP 6(a).¹⁵ The file review indicates that this timeline was met in 52% of the cases in the Shelby County Juvenile Court. Twenty-eight percent of the cases had hearings more than 30 days after removal.

TRJP 17 provides that all cases in which a child is detained or in custody shall be scheduled for adjudication within 30 days after the date the child is taken into custody or detained. All other cases shall be initially scheduled for adjudication within 30 days of the date of filing if such early scheduling is reasonable given the circumstances of the case. In any event, every case shall be scheduled to be heard within 90 days. The NCJFCJ Resource Guidelines states that a best practice is to have the adjudicatory hearing within 60 days of removal of the child from the home.¹⁶ Since a child was not always removed from the home and when the child was removed, the petition was filed on the same day, NCSC measured timeliness from the date of petition to date of adjudicatory hearing. Of the 101 cases, 61 had an adjudicatory hearing and in 59% of these cases the adjudicatory hearing was held within 60 days of the petition date. In 16 % of the cases, the adjudicatory hearing was held within 30 days of the filing of the petition.

TRJP 18 requires that disposition be made within 15 days of the adjudication hearing if the child is in custody and within 90 days in all other matters. Disposition

¹⁵ National Council of Juvenile and Family Court Judges, *Resource Guidelines, Improving Court Practice in Child Abuse and Neglect Cases* (1995), p. 30.

¹⁶ *Ibid.*, p. 46.

hearings were held in 32% of the cases and 94% of these were held at the same time as the adjudicatory hearing. These data are summarized in Tables 2 and 3 below.

Table 2.
Days from Removal to Preliminary Hearing in Dependency or Neglect Cases

Number of Days	Number of Cases	Percent of Total
Before Removal	1	4%
0 days	10	40%
1-5 days	2	8%
6-15 days	1	4%
15-30 days	4	16%
30+ days	7	28%

Table 3.
Days from Petition to Adjudicatory Hearing in Dependency or Neglect Cases

Number of Days	Number of Cases	Percent of Total
0 days	3	5%
1-30 days	6	11%
31- 60 days	24	43%
61-90 days	7	13%
91-120 days	6	11%
121-240 days	2	4%
240+ days	8	14%

Recommendation 17. For cases filed in the coming court year, the Juvenile Court should adopt a goal that, absent either (a) grant of a motion for extension for good cause on the record (and reflected in the case file) by a defendant or by the GAL or legal counsel for the child, or (b) grant of a motion for extension for good cause on the record (and reflected in the case file) by the State of Tennessee, at least 75% of all dependency and neglect cases meet applicable time

requirements of the Tennessee Rules of Juvenile Procedure. In the following court year and each year thereafter, the goal should be for at least 90% of cases to have an adjudicatory hearing within the time requirements in the rules. In its annual report to the public, the court should include data on its actual performance in terms of this goal for all petitions filed during the year.

There is broad agreement that delay defeats the essential purposes of the courts and the best interests of children who come before them. To promote public trust and confidence, it is critical for a court to assure that unnecessary delay is avoided. This can best be achieved by creating a clear expectation that progress in virtually all cases must meet established time expectations absent problems beyond the control of the court and the parties.

5. Continuances. Another important aspect of timeliness is the number of delays in the court proceedings. NCSC measured this by determining the percent of hearings that were continued. Generally, the reasons for the continuances were not noted in the orders so is not possible to speculate on the causes of delays. Delays were most evident in the adjudicatory and TPR hearings. Overall, the number of continuances was very low for most hearing types. Twenty percent of adjudicatory hearings and 10% of TPR hearings had at least one continuance. The data is summarized in Table 4 below.

Table 4. Hearing Date Continuances in Dependency or Neglect Cases

Type of Hearing	Percentage of Hearing Type With Continuances
Shelter Hearing	1%
Initial Hearing	6%
Adjudicatory Hearing	20%
Permanency Hearing	2%
TPR Hearing	10%
Review Hearing	2%

Recommendation 18. Court records (including case files) should accurately reflect all continuances, which parties have requested

them, and the reasons for granting them. To assure that parties and counsel prepare adequately for court hearings, the Juvenile Court should maintain the expectation that court events will in fact occur as scheduled.

Case files indicate that the Juvenile Court is doing well in its limitation of unnecessary continuances. As the court takes steps to increase the percentage of cases in which the adjudicatory hearing is held in a timely manner (see the previous recommendation), it will be important for it to sustain its current level of continuance control.

6. Case Outcomes. NCSC also looked at outcomes for children in abuse and neglect cases. Outcomes were recorded in 75 of the 101 cases. As Table 5 shows, 31% of the cases recording an outcome resulted in the child being placed with a relative; 17% resulted in termination of parental rights; 14% were returned home, and 18% were dismissed.

Table 5. Frequency of Various Case Outcomes in Dependency or Neglect Cases

Outcome	Frequency
Child Returned Home Date	14%
Placed with Noncustodial Parent Date	7%
Child was Adopted Date	1%
Child in legal custody of relative date	31%
Child in legal custody of non-relative date	6%
Child Emancipated Date	1%
Case Dismissed Date	18%
Other	5%
TPR	17%

D. Juvenile Delinquency Cases

NCSC reviewed 100 juvenile delinquency files, 24 of which were non-judicial cases and 76 were judicial cases. The cases were reviewed for the same qualitative and quantitative qualities reviewed in the abuse and neglect cases. That is, mainly the

appearance that the juveniles received a fair and speedy hearing. Among the 100 cases reviewed, 80% involved a male youth, 19% female youth, and 1% had insufficient gender data. Eighty-four percent of the cases involved an African-American youth; 12% a Caucasian youth and 3% other races with 1% undetermined. The files were randomly selected from cases with recent activity in them. Some were recently closed, but the majority of cases were open and on-going.

1. General Observations. The case files indicate that of the 100 juvenile files reviewed, the juvenile was detained in 47 of them. Generally, juveniles were not detained in instances where the case was handled non-judicially. Forty-one of the juveniles detained had their cases processed through the judicial system. Of the 24 juveniles whose cases were handled non-judicially, only 5 were detained. The court files do not contain information about the length of detention, so no conclusions can be drawn about duration of stay. The time between arrest and detention was collected. Of the 47 cases of detention, 37 cases indicated that a detention hearing was conducted.

Recommendation 19. As with dependency and neglect case files (see above), and without compromising any appropriate confidentiality requirements, the legal files kept by the clerk's office for delinquency cases should present a full and accurate summary of the factual grounds for the court's jurisdiction, detention hearing dates, the nature and dates of all other court hearings, the judgment of the court and its factual basis, and the nature and dates of all post-judgment proceedings.

The need for the clerk's office to keep an appropriate record of court proceedings is no less for delinquency cases than for dependency and neglect cases. (See discussion of the similar recommendation above for dependency and neglect cases.)

2. Timely Detention Hearings. TRJP 6 (a) requires that a detention hearing be held no later than three (3) days, excluding non-judicial days, after the child is placed in custody. TRJP 6 (b) provides that children alleged to be unruly shall not be detained for more than 24 hours unless there has been a detention hearing. It should be noted that NCJFCJ Delinquency Guidelines suggest that a detention hearing be held on the next business day after detention or in any case within 48 hours of detention. The majority of cases, 70 percent, had hearings in the time frame established by court rule. Fifty-four percent had a detention hearing within one day. It should be noted, however, that

according to the files, 21% of juveniles detained did not have a detention hearing. A summary of the timeliness of detention hearings is shown in Table 6 below.

Table 6. Days from Arrest to Detention Hearing in Delinquency Cases

Time from Arrest to Detention Hearing	Number of Cases	Percent of Total
0-1 days	20	54%
2-3 days	6	16%
4-25 days	5	13.5%
26-50 days	2	5.4%
51+ days	4	10.8%

3. Representation by Counsel. Whether a juvenile is represented by counsel is another indicator the quality of justice being served by the Shelby Juvenile Court. Counsel was appointed in 45 of the 76 judicial cases. In eight judicial cases the juvenile employed a private attorney. In the 38 instances where there was a recorded arrest and an attorney appointed to the juvenile, about 40% of the time the attorney was appointed within 10 days of the arrest. Court officials indicated that recent practice in appointing attorneys has changed since September 2006, and that since that time every juvenile has been appointed an attorney. The data here may not reflect this because many of the case files reviewed pre-dated the change in policy. The data on timeliness of appointed counsel is shown in Table 7 below.

Table 7. Days from Arrest to Appointment of Attorney in Delinquency Cases

Time from Arrest to Appointment of Attorney	Number of Cases	Percent of Total
0-3 days	7	18.4%
4-10 days	8	21.1%
11-20 days	8	21.1%
21-50 days	11	28.9%
51+ days	4	10.5%

Recommendation 20. As with abuse or neglect cases, all Juvenile Court delinquency case files should indicate whether there has been a determination of eligibility for representation at public expense; whether legal counsel has been appointed, waived or privately retained. Case files should record the appearances and the names of appointed, retained or conflict counsel, as well as any withdrawals by defense counsel or prosecuting attorneys.

Since the US Supreme Court's decision in *In re Gault*, defendants in juvenile delinquency cases have been entitled to most of the constitutional protections available to defendants in adult criminal cases, including the right to counsel. NCSC commends the Shelby County Juvenile Court for its decision since September 2006 to provide appointed counsel for delinquency defendants. In that same spirit, the court should have its case files show the names of all attorneys who have appeared, and what person they represented, as well as any attorney withdrawals.

4. Timely Adjudication Hearings. TRJP 17 provides that all cases in which a child is detained or in custody must be scheduled for adjudication within 30 days of the date the child is taken into custody or detained. All other cases shall be initially scheduled for adjudication within 30 days of the date of filing if such early scheduling is reasonable given the circumstances of the case. In any event, every case shall be scheduled to be heard within 90 days. The NCJFCJ Delinquency Guidelines recommend

that the adjudicatory hearing be held within 10 business days of the detention hearing.¹⁷ The file review indicates that in 33 instances both a detention hearing and an adjudicatory hearing were held. Twenty-one percent of the 33 cases had the adjudicatory hearing within 10 days of the detention hearing. The majority of cases had a hearing within thirty days of the detention hearing. The results are shown below in Table 8.

Table 8. Days from Detention to Adjudicatory Hearing in Delinquency Cases

Time from Detention Hearing to Adjudicatory Hearing	Number of Cases	Total of Percent
0 – 10 days	7	21%
11 - 20 days	10	30%
21 - 30 days	7	21%
1 - 40 days	3	9%
41 - 50 days	3	9%
51+ days	3	9%

Since only 33 cases had a detention cases, the time between arrest and adjudication was measured in 63 of the cases. The results of this analysis are shown in Table 9.

Table 9. Days from Arrest to Adjudicatory Hearing in Delinquency Cases

Number of Days from Arrest to Adjudicatory Hearing	Number of Cases	Percent
0 – 20 days	18	28%
21 - 40 days	24	38%
41 - 60 days	9	14%
61 - 80 days	5	8%
81+ days	7	11%

¹⁷ *Juvenile Delinquency Guidelines* by National Council of Juvenile and Family Court Judges. 2005. Pg. 121.

Recommendation 21. As with dependency and neglect cases, the great majority of delinquency cases should have a prompt adjudicatory hearing. For the coming court year and each year thereafter, the Juvenile Court should adopt a goal that, absent either (a) the grant of a motion for extension for good cause on the record (and reflected in the case file) by the defendant, or (b) the grant of a motion for extension for good cause on the record (and reflected in the case file) by the State of Tennessee, at least 90% of all delinquency cases meet time requirements set forth in the Tennessee Rules of Juvenile Procedure. In its annual report to the public, the court should include data on its actual performance in terms of this goal for all petitions filed during the year.

5. Disposition Hearings. TRJP 18 requires that disposition be made within 15 days of the adjudication hearing if the child is detained and within 90 days in all other matters. The NCJFCJ Delinquency Guidelines suggest that the disposition hearing may be held sequentially with the adjudication hearing if all persons and information are available to the court when the youth is adjudicated.¹⁸ If additional information is needed or additional persons are required, the disposition should be held at a subsequent date and time. The disposition hearing should be held within 5 days of the adjudicatory hearing if the child is being detained.¹⁹ Data from the file review indicates that in almost all instances the adjudicatory and disposition hearings were collapsed into a single hearing.

The Delinquency Guidelines do not recommend that a pre-sentencing disposition report be completed prior to a juvenile being adjudicated.²⁰ They offer two reasons for this. First, a juvenile delinquency court should not require a youth and family to share the personal and intrusive information necessary for a pre-disposition investigation if the youth has not been adjudicated on an offense. Second, if the juvenile delinquency court judge determines the youth did not commit the offense, or the offense does not result in probation or placement, the time and resources spent on the investigation were used unnecessarily.

¹⁸ Ibid., p. 135.

¹⁹ Ibid.

²⁰ Ibid., at p. 133.

Collapsing the adjudicatory hearing and the disposition hearing necessarily requires that the pre-sentencing report be concluded prior to adjudication. In instances where the juvenile is entering into a consent decree, collapsing hearings may be acceptable; however, the practice should be reviewed if a consent decree is not being entered into. Essentially, the times from detention to disposition and from arrest to disposition are the same as those for detention to adjudication and arrest to adjudication, respectively.

6. Case Outcomes. Ensuring that the juvenile justice system diverts cases to alternative systems whenever possible and appropriate is one of the key principles put forth by the *Juvenile Delinquency Guidelines*.²¹ The types of dispositions imposed by the court are shown below in Table 10. It should be noted that more than one disposition may be imposed in a single case (e.g. youth may have been placed on probation and required to pay restitution.) It also needs to be noted that pre-disposition investigation reports or probation plans were not included in the case file. Whether these reports are being prepared is unclear. The lack of such reports gives the appearance that the disposition imposed is arbitrary and not based on the individual facts of the case. If pre-sentencing reports are being conducted, copies should be located in the case file.

Table 10. Case Outcomes in Delinquency Cases

Disposition	Percent
Advisement	8%
Advisement Dismissed	15%
Charge Not Substantiated	7%
Community Service	1%
Consent Decree, Probation	10%
Dismissed	4%
Mentoring Agreement	1%
Supervised Probation	13%
Referred to Hanover House	1%
Released from YSB	12%

²¹ Ibid., p. 138.

Restitution	5%
Struck due to Lack of Service	2%
Transferred Jurisdiction	1%
Warn and Counsel	21%
YSB	3%

D. Disproportionate Minority Contact

US census data for Shelby County in 2005 show that 51% of the resident population are African-Americans; 44% are White; 2% are Asian; others represent 3%; and over 3% are Hispanics or Latinos of any race.²² As Section C above indicates, African-Americans constituted 84% of the parties in the sample of abuse or neglect cases inspected by the NCSC project team, while 13% were Caucasian, and 1% were some other race. For the NCSC sample of juvenile delinquency cases, Section D above shows that 84% involved an African-American youth; 12% a Caucasian youth and 3% other races, with 1% undetermined. The NCSC sample of cases thus appears to confirm what has been noted in the past for Shelby County – that there is a higher percentage of African-Americans appearing in Juvenile Court than there is in the county population as a whole.

Efforts to address disproportionate minority representation in the juvenile justice system began with 1998 amendments to the 1974 Juvenile Justice and Delinquency Prevention Act which mandated that states receiving certain federal grant funds address the issue of disproportionate minority confinement (DMC). States were required to assess the extent of the problem, the reasons for it, and employ strategies to reduce it. The Juvenile Justice and Delinquency Prevention Act of 2002 expanded the original requirement to address overrepresentation of minorities from “confinement” to “contact” with the juvenile justice system. This meant that disproportionate minority representation was to be examined at all stages of the juvenile justice system, a more complex

²² US Census Bureau, “American FactFinder: Shelby County, Tennessee, 2005” (retrieved from internet on March 26, 2007), http://factfinder.census.gov/servlet/ACSSAFFacts?_event=Search&geo_id=&_geoContext=&_street=&_county=Shelby+County&_cityTown=Shelby+County&_state=04000US47&_zip=&_lang=en&_sse=on&pctxt=fph&pgsl=010.

requirement and concept, and that intervention strategies would have to be more comprehensive and multi-faceted.²³

The Office of Juvenile Delinquency and Prevention (OJJDP) requires all states to collect specified statewide data and data from targeted local DMC reduction sites on a continuing basis. Reporting requirements were adjusted in response to the change from “confinement” to “contact” and, more recently, a new method of assessing overrepresentation, the Relative Rate Index (RRI), was substituted for the previous Disproportionate Representation Index (DRI) because of problems that tended to inflate the degree of overrepresentation at later stages of case processing.²⁴ Following is a brief discussion of RRI:

The Relative Rate Index involves comparing the relative volume (rate) of activity for each major stage of the juvenile justice system for minority youth with the volume of that activity for white (majority) youth. The method of comparison provides a single index number that indicates the extent to which the volume of that form of contact or activity differs for minority youth and white youth.

An index value of 1.00 would indicate that the rates were essentially the same. For example, in the table above, the index number for referrals of all minorities is 3.08. It is so far from 1.00 that it is unlikely to have occurred as a random process, so use of the red color and bold font indicate that this finding is statistically significant. The interpretation of that value is that the relative volume of referrals, taking into account the relative size of the juvenile populations, is more than three times greater for minority youth in the jurisdiction.

In some instances, notably, diversion and probation, a higher index value would mean that minority youth have higher rates of activity, which may be positive for them—in other words, a high index value for diversion would mean that a relatively higher rate of diversion occurred for minority youth. Conversely, an index value significantly lower than 1.00 means less diversion or probation for minority youth. For example, in the table above, the index value of .95 for diversion indicates that the rate of diversion for minority youth is only slightly less than the rate of diversion for white youth.²⁵

²³ A. M. Nellis, *Seven Steps to Develop and Evaluate Strategies to Reduce Disproportionate Minority Contact* (Washington, DC: Juvenile Justice Evaluation Center, January, 2005).

²⁴ For a review of the calculations involved in the RRI compared to the DRI and a discussion of the differences, see Feyerham and Butts, *Proposed Methods for Measuring Disproportionate Minority Contact* (available online at <http://www.ojjdp.ncjrs.gov/dmc/>).

²⁵ Adapted from OJJDP, *DMC Technical Assistance Manual*.

The data collected by OJJDP since 1993 and other independent investigations have generated a substantial body of academic and other research literature on the topic of DMC across jurisdictions. In general, reviews of the literature have identified five common explanations for why overrepresentation may exist. As summarized by Nellis (2005), they are: differential offending, differential opportunities for prevention and treatment, differential handling of minority youths; indirect effects (that is, relationships that are mediated by other factors which are correlated with race); and legislative changes, administrative policies, and legal factors.²⁶ While the results of some analyses are conflicting or ambiguous, the current general consensus is that race effects are present in juvenile case processing, that minority youth are overrepresented at multiple stages of the process, and that the degree of overrepresentation increases the further the youth goes into the system.²⁷ Clearly, the Juvenile Court of Memphis and Shelby County is not alone among juvenile courts facing this issue.

It was beyond the scope of this project to conduct an independent quantitative or qualitative analysis of the presence or degree of DMC in the Juvenile Court of Memphis and Shelby County. The Court and the County Commission have access to the results of a study on disproportionate minority confinement in five counties, including Shelby County, which was initiated and funded by the Tennessee Commission on Children and Youth (TCCY) in 2003.²⁸ The statistics provided to OJJDP on DMC are also available. The results of the most recent compilation of this data and the RRI calculations were made available to NCSC by TCCY. These results, which were originally released in 2005, are reproduced in Table 11. A guide for interpreting the results follows the presentation of the table.

The interpretation and factors underlying the results of the 2003 research and the RRI numbers may be debated. There are also other statistical comparisons and anecdotal evidence that may be used in this debate. In NCSC's discussions with representatives of the Juvenile Court, there were a number of different opinions expressed about why DMC occurred, but most centered on the fact that the court cannot control, and must accept and

²⁶ Nellis, *Seven Steps* (2005).

²⁷ NCJFCJ, *Juvenile Delinquency Guidelines* (2005), and Nellis, *Seven Steps* (2005).

²⁸ Office of Business and Economic Research, *Assessment of Disproportionate Minority Confinement in the Tennessee Juvenile Justice System* (2003).

process, the referrals that are sent its way by law enforcement, schools, social agencies, and parents or relatives of the child. Material provided to the Juvenile Court Ad Hoc Committee, and subsequently to NCSC, by the Court, outlines some of the steps that the Court has taken to address the issue, such as the implementation of the Detention Assessment Tool and efforts to develop alternatives to confinement, and its adherence to the principles of the Juvenile Detention Alternatives Initiative (JDAI) sponsored by the Annie E. Casey Foundation.

Table 11. DMC Relative Rate Index for Shelby County*

Summary: Relative Rate Index Compared with White Juveniles							
State :Tennessee							
County: Memphis/Shelby							
Description	Black or African-American	Hispanic or Latino	Asian	Native Hawaiian or other Pacific Islanders	American Indian or Alaska Native	Other/Mixed	All Minorities
2. Juvenile Arrests	--	--	--	*	*	*	--
3. Refer to Juvenile Court	3.32	**	0.44	*	*	*	3.08
4. Cases Diverted	0.94	--	0.79	*	*	*	0.95
5. Cases Involving Secure Detention	1.57	--	0.71	*	*	*	1.57
6. Cases Petitioned	1.18	--	0.76	*	*	*	1.17
7. Cases Resulting in Delinquent Findings	1.34	--	**	*	*	*	1.33
8. Cases resulting in Probation Placement	1.00	--	**	*	*	*	0.99
9. Cases Resulting in Confinement in Secure Juvenile Correctional Facilities	1.95	--	**	*	*	*	2.12
10. Cases Transferred to Adult Court	2.11	--	**	*	*	*	2.18
Group meets 1% threshold?	Yes	Yes	Yes	No	No	No	

*TCCY release date: 10/30/05

Key:

Statistically significant results:
Results that are not statistically significant

Group is less than 1% of the youth population
Insufficient number of cases for analysis

Missing data for some element of calculation

Bold Red Font

Regular Font

*

**

One of the purposes of the JDAI is to shift the focus from the debate over the numbers and the causal factors that are not under the control of the court, to the factors that can be controlled or influenced by the court.²⁹ These factors include the use of objective criteria at all decision making points, the reduction of unnecessary delays in case processing, the promotion of cultural sensitivity throughout the system, and increased access to culturally appropriate services, among others.

NCSC recognizes the sensitive nature of DMC issues and the defensiveness and avoidance that may occur when such issues are discussed. However, the County Commission, the Juvenile Court, court-related agencies and organizations, and the community must move ahead together on this issue. One of the core strategies of the JDAI is “Collaboration between the major juvenile justice agencies, other governmental agencies, and community organizations.” Without collaboration, they note, even the most carefully-designed reform efforts can flounder or be subverted.³⁰ Initial efforts to encourage collaboration might include joint educational sessions on key DMC issues and causes as well as how DMC data should be interpreted and used. While NCSC understands that many members of the Commission and representatives of the Court are well-versed on DMC, joint training may serve to create a common language for discussing the issues and agreement on the measures that will be used to diagnose problems and measure performance over time.

²⁹ NCJFCJ, *Juvenile Delinquency Guidelines* (2005).

³⁰ Annie E. Casey Foundation, Juvenile Detention Alternatives Initiative, “JDAI Core Strategies,” available at www.aecf.org/MajorInitiatives/JuvenileDetentionAlternativesInitiative/CoreStrategies.

IV. STRATEGIES FOR CHANGE

It is important for the Court, the County, and juvenile justice stakeholders to work together in a continuing collaborative effort to assure that justice done in both delinquency and dependency/neglect cases, and that the best interests of children and their families are promoted while society is protected. To that end, NCSC offers the following suggestions.

A. General Approach to Improvement

According to the National Association for Court Management, strategic planning is one of the key things that court leaders should know and be able to do.³¹ This involves not only the development of a clear articulation of a court's reason for being – its mission – but also the determination of specific steps (goals and objectives) for achieving that mission. In the juvenile justice setting, it is critical for the juvenile court to collaborate with other key stakeholders in the identification of how to realize those goals and objectives.

Recommendation 22. To guide its efforts to provide justice and customer service to all those who come before it, the Juvenile Court should develop a formal mission statement, with related goals and objectives for accomplishment of that mission. Accomplishment of the Court's mission, goals and objectives should give direction to the operation and management of the Court, and the Court's progress in the achievement of its goals and objectives should be part of the Court's annual report to the public.

The Juvenile Court's current mission statement is to (1) to protect as well as correct and habilitate the child; (2) to protect society; and (3) to uphold the dignity of the law. Many of the various bureaus and offices in the court also have mission or purpose statements. What is not clear is if specific goals and measurable objectives have been developed for these mission statements or whether the mission statement would readily translate into concrete goals and objectives.

³¹ See National Association for Court Management, *Core Competency Curriculum Guidelines: Visioning and Strategic Planning*, http://www.nacmnet.org/CCCG/cccg_10_corecompetency_visioning.html.

NCSC proposes that the effort to develop a mission statement and related goals and objectives be a court-wide process and involve personnel at all levels of the system. When the court's overall mission statement, goals, and objectives are finalized, the various divisions and specific offices can develop their own goals, and objectives in light of the overall mission, but considering their particular role and function in the system. Progress toward meeting stated goals and objectives should be documented for the court as a whole and by division. Easily understood statements of progress should be included and highlighted in the court's annual report.

B. Continued Attention to Best Practices

As the leaders of the Juvenile Court are aware, there are several high-value sources of information about best practices across the country in the handling of juvenile cases. Of particular importance, in addition to NCSC, is the National Council of Juvenile and Family Court Judges (NCJFCJ, after which Tennessee's statewide TCJFCJ is no doubt patterned) and its research arm.

Recommendation 23. Recognizing the many positive accomplishments by the Juvenile Court, as well as the improvements that it has made since September 2006, the Court should continue its improvement efforts in light of such nationally-recognized best practices as those highlighted in the National Council of Juvenile and Family Court Judges' (NCJFCJ) *Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases* and *Improving Juvenile and Family Court Handling of Juvenile Delinquency Cases: Guidelines for Improving Court Practice*.

In its publication, *Your Juvenile Court*, the Juvenile Court states that it generally subscribes to the standards set by the U.S. Children's Bureau, the National Council of Juvenile and Family Court Judges, and the American Correctional Association. NCSC observed that recommended standards and hearing checklists from the *Resource Guidelines* and *Delinquency Guidelines* have been incorporated into the education materials provided to guardians ad litem and juvenile defenders. Therefore, it appears that the guidelines have been at least partially accepted as a useful resource for the Court. The two sets of guidelines provide particularly effective assistance for courts seeking to improve their systems because they are based on the practices and experience of actual

courts who have achieved some success in addressing the challenges of delinquency and dependency cases. The guidelines are also especially useful because they specifically track the court process from beginning to end and analyze the requirements for timely and meaningful hearings that produce better outcomes for cases. Because they are nationally recognized standards, courts can cite their adherence to the guidelines to increase the public's trust and confidence in the court system.

C. Court Performance Measures

In 1990, a distinguished national commission, chaired by the Chief Judge of Delaware and assisted by NCSC, promulgated a set of 22 "Trial Court Performance Standards" ("TCPS").³² Previous efforts of court reform had focused on the structures and machinery of the court system and not on the accomplishments of the courts towards larger purposes. The standards address five areas:

- Access to justice,
- Expedition and timeliness,
- Equality, fairness and integrity,
- Independence and accountability, and
- Public trust and confidence

These five areas when taken together articulated the primary values of the trial court system and formed the basis for measurement of court performance. Field-tested in a number of courts, these court performance standards have become an important part of the discourse among court leaders about the operation and management of courts, both in the US and increasingly in the courts of other countries. By the processes of articulating goals and devising a system of measurement addressing activities, processes and attitudes that contribute to attainment of goals, the development of these standards was a reflection of a national performance measurement movement.

Concurrent with the development of TCPS, a quiet revolution was underway in the public and private sectors where the issue of measurement of performance was rapidly gaining a foothold as a standard management practice. The most recent development in the area of court performance measurement has been the creation of ten

³² See Bureau of Justice Assistance and NCSC, *Trial Court Performance Standards and Commentary* (1990, 1997), http://www.ncsconline.org/D_Research/TCPS/index.html.

core measures (called “CourTools”) by NCSC in collaboration with a number of court leaders at the state and local levels.³³

Recommendation 24. Consistent with its mission, goals and objectives, and with nationally-accepted performance standards and measures, the Court should adopt court performance standards with associated performance measures. The Court’s annual report to the public should include a report on its performance in light of such standards and measures. In addition, the individual performance of all court officials and employees should be linked to and assessed in terms of the Court’s mission, goals, objectives, and performance standards and measures.

Some of the Trial Court Performance Standards would have to be modified in a juvenile court setting, where confidentiality is an important issue and where jury trials are typically not available. Yet these standards and the associated performance measures should serve as a fruitful starting point for the Juvenile Court in Shelby County.

D. Broadening Juvenile Court Advisory Council

NCSC understands that a Juvenile Court Advisory Council was established by Judge Person in the fall of 2006. Its members include legislators and civic leaders, a county commissioner, attorneys who practice before the court, and representatives of various child welfare organizations and agencies and other institutions. The stated purpose of the Advisory Council is to advise the Juvenile Court on the special needs of the community in relation to the functions and services of the court system.

Recommendation 25. Through a broad group including all representatives of stakeholders in Shelby County juvenile justice, the Court should work collaboratively to achieve (a) further improvements in the processing of both juvenile delinquency and dependency and neglect cases, and (b) expansion of the network of services and opportunities for the children and families of both the City of Memphis and suburban areas of Shelby County.

NCSC believes this council could be the building block for the group envisioned, however, the purpose of the group and likely the membership would need to expand.

³³ See NCSC, “CourTools,” http://www.ncsconline.org/D_Research/CourTools/tcmp_courttools.htm.

The proposed group would likewise receive input from the community but other organizations and agencies would also bring issues to the table and an agenda of topics would be developed. It could review policies and work on solutions to agreed problems. Its efforts can well be supported by more staff members from the Court – that is, involving more people who are actually doing the work of the Court in the process of improving its operations.

E. Communication with Stakeholders and the Public

One of the problems of trying to improve any aspect of court management is that the court does not operate in a simple and uncomplicated setting. Instead, the day-to-day operations of a court involve not only a large number of individual citizens, but also the coordination of activities among a number of separate institutional actors. Especially in juvenile and family matters, caseworkers and social service providers often represent state or local organizations, both public and private, that are separate from the court. Moreover, to obtain funding support for innovative programs, court leaders must typically deal with county or city officials at the local level or, at the state level, legislators and executive-branch officials. Courts operate in a governmental environment with other institutions that “do not share identical concerns or see the same world,” and each institution “perceives its own purpose as central, as an ultimate value, and as the one thing that really matters.”³⁴

In the Shelby County setting, communications is critical to the achievement of ongoing improvements in the Juvenile Court. The likelihood of success in the change effort is greatly enhanced if the Court provides for broad consultation among court leaders, members of the practicing bar, and the key representatives of other institutional participants in the court process. In addition, active communication with the public at large is essential for the Court to establish and maintain public trust and confidence in its operations.

³⁴ Peter Drucker, *The New Realities* (1989), p. 84.

Recommendation 26. As with all other courts, the Juvenile Court in Shelby County should promote openness, transparency, and accountability in all elements of the juvenile justice process, except those where confidentiality is necessary in individual cases. To this end, the Court should make its annual report an opportunity to provide information to the public about its accomplishments not only in serving the best interests of children and protecting society, but also in terms of access to justice; expedition and timeliness; equality, fairness, and integrity in the court process; judicial independence and accountability; and promotion of public trust and confidence in the courts and the justice system.

The *Annual Report* issued by the Juvenile Court is an excellent document in many ways. It is attractive, well-produced, and contains informative, but not overwhelming, summaries of the work of the various divisions and units. It also contains detailed data tables on the characteristics of the cases and the children and families (social data) who have been involved with the court in the previous year. While most of the tables differentiate delinquency, unruly, and dependency/neglect, consideration should be given to developing separate sections in the report to discuss information on each case type. They are distinct case types, with their own legal requirements, processes, and services. More importantly, they may be of varying interest to external organizations and agencies and other stakeholder groups. For instance, those organizations that are involved in child welfare issues may want to focus on the statistics and comparisons over time in these cases. Specialized sections would also allow the work of some of the volunteer agencies to be discussed in the context of the case type rather than under Administrative Services; for instance, CASA and the Foster Care Review Board in the context of overall neglect and abuse information and APOs in the context of delinquency cases.

F. Conclusion

As we note above in the introduction to this report, the Juvenile Court for Memphis and Shelby County merits praise in many areas of its operations. Yet there are also a number of important areas in which further improvements are necessary. As a general framework, it is desirable for the Court to keep in mind such broad criteria as those suggested here, as a way for it to optimize services given by the juvenile justice system to children and their families in Memphis and Shelby County.

There are important and complex issues facing the Juvenile Court, such as disproportionate minority contact with the juvenile justice system; adequacy of legal representation; suitable placements for children in abuse and neglect cases; and the quality of child support enforcement. These issues have been beyond the scope of this assessment. Yet the NCSC project team hopes that the observations offered here will help Shelby County and its Juvenile Court find ways to minimize the negative impact of such issues and promote achievement of the fundamental purposes of the Court.

APPENDICES

APPENDIX A.

COMMENTS ON NCSC JUNE 8 DRAFT REPORT BY JUVENILE COURT STAFF MEMBERS*

NOTE: In their commentary in this appendix on NCSC Recommendation 3 (see p. 56, lines 12 and 13), Juvenile Court staff members indicate that they have attached two opinions by the Shelby County Attorney as “Exhibit A” and “Exhibit B.” Copies of those opinions were received by facsimile transmission by the NCSC project director on June 28, 2007:

- Shelby County Attorney, Opinion OP-07-24, re: Funding of Public Defender for Representation of Juveniles and/or Adults under the Jurisdiction of the Juvenile Court of Memphis and Shelby County (Letter from Brian L. Kuhn, Shelby County Attorney, and Christy L. Kenard, Assistant County Attorney, to Commissioner Mike Ritz, Shelby County Board of Commissioners, March 28, 2007).
- Shelby County Attorney, Opinion OP-07-032, re: Conversion of Juvenile Defender Position to Coordinator of Defense Panel for the Juvenile Court of Memphis and Shelby County (Letter from Brian L. Kuhn, Shelby County Attorney, and Christy L. Kenard, Assistant County Attorney, to Larry K. Scroggs, Chief Legal Counsel, Juvenile Court, May 10, 2007).

Those opinions are not reproduced in this report. The copies sent to NCSC indicate, however, that they are both available in File Number CFS #A5018-06 in the Office of the Shelby County Attorney.

* Source: Electronic mail message from Jeune Wood, Shelby County Juvenile Court (Wednesday, June 27, 2007, 6:49 PM) to David Steelman, National Center for State Courts. The comments by court staff members were an attachment to that message, and they have been reproduced here verbatim, with no editing or change by NCSC.

NCSC Draft Report – Summary of Recommendations and Staff Observations

1. Juvenile Court should assign cases to judicial officers under a one family/one judge case assignment system.

COMMENTS: Court staff concurs that the concept of “one family/one judge” is a laudable goal; however, they are almost unanimous in their skepticism that this concept could work well in a court with a case volume as large and complex as this Court experiences. Many note that one way the Court addresses consistency of case handling is through its practice of generally assigning a family to the same probation counselor whenever possible (delinquency and D/N cases). They also point to the social file that exists primarily for the purpose of tying all family information together in one file that is available to all judicial officers. Among concerns most frequently expressed were: (a) probable slowing of expeditious handling of cases and less ability to efficiently manage docket time thereby having the negative effect of prolonging a family’s contact time with the juvenile justice system; (b) large number of blended families adding confusion to docket assignment decisions; (c) the possible negative consequence of perceptions on the part of some families that a single judge who is involved with all their family issues may develop a bias or prejudice over time that the family cannot overcome. Chief Counsel Scroggs notes that, should the Court decide to consider this practice, it would be useful to implement a six-month pilot program directed toward a sample of dependency and neglect cases.

2. There should be exploration of methods to monitor and measure the quality of service each juvenile defender is providing.

COMMENTS: Staff concurs with this recommendation. Ms. Hobbs notes that reclassification of her Juvenile Defender position to that of “Coordinator of the Juvenile Defender Panel” is the first step toward achieving this goal. Other suggestions include development of a quality assurance program that involves regular feedback from the judiciary and other Court officers and development of a customer satisfaction survey directed toward clients served by juvenile defenders.

3. The Juvenile Court Judge, the Shelby County Public Defender, and representatives of the Shelby County Commission should consider what level and deployment of resources would (be) needed for the Public Defenders Office to provide and supervise juvenile defense attorneys.

COMMENTS: Staff generally agrees that reclassifying Ms. Hobbs’ position to Coordinator will assist the Court in efforts to effectively monitor and measure quality of service provided by juvenile defenders. Regarding the issue of “deployment of resources”, Ms. Hobbs notes that to maintain the current levels of counsel availability, the Public Defender (presuming he is willing to assume this function) would have to create at least five to six full time positions assigned to Juvenile Court. She further

notes the additional burden of those JDs being located off-site if the Court cannot provide adequate office space to house them. That issue triggers a significant staff concern that lack of readily available JD assistance could cause unnecessary continuances, subsequent backing up of docketed cases, and juveniles backing up in detention due to delays in moving cases through to disposition. Added to those concerns is the fact that the Public Defender would have to fully fund positions assigned to his office with funds from the county general fund. State funds available and paid by the AOC through Rule 13 can only be applied to appointments of private counsel from the defender panel.

The Juvenile Court Judge is authorized to appoint either the Shelby County Public Defender, or a private attorney to provide representation to indigent parties. (See T.C.A. § 8-14-205(a)(d); and Tenn. Supreme Court Rule 13)(See also County Attorney Opinions dated 3/28/07 & 5/10/07 attached as Exhibits “A” & “B”)

Note: The Juvenile Court has utilized Rule 13 since 1986 and this is currently the primary means of providing representation.

4. The efforts by the Office of the Guardian ad Litem to implement the policy of the Juvenile Court regarding appointment of GALs, recruitment of attorneys, and provision of training and other resources to panel attorneys should be encouraged and expanded. In these and other efforts, the office should continue to take advantage of the accumulated knowledge on best practices and innovative programs that have been documented through the federal and state-level court improvement programs and guidelines promulgated by organizations such as the National Council of Juvenile and Family Court Judges and the National Association of Counsel for Children.

COMMENTS: Ms. Dwyer noted that the NCSC report indicates some misunderstanding on the part of the study team as the report implies that all respondent parents should have appointed counsel. She clarifies that her office coordinates the appointment of counsel for indigent respondent parents pursuant to Tenn. S. Ct. Rule 29. Given this court’s significant D/N caseload and the high number of indigent respondent parents in Shelby County, her office needs the assistance of a dedicated clerical position.

5. The Office of the Guardian ad Litem should explore methods to monitor and measure the quality of service each GAL is providing.

COMMENTS: Staff concurs with this recommendation. Mr. Maness recommends an evaluation process akin to the Children’s Program Outcome Review Team (C-PORT) process administered by TCCY for children placed in custody of DCS to assess the satisfaction of stakeholders in the GAL process. He further notes that such a process could help the court to identify both real and perceived issues encountered by those in the foster care and juvenile justice systems.

6. The Juvenile Court should build upon the experience gained from the operation of the Office of the Advocate for Noncustodial Parents and develop a plan for bolstering the informational component of self-represented assistance. The Court should seek the input of the bar, potential contributors of information, and the community on the direction and form of this effort.

COMMENTS: Ms. Howard notes that the Protective Services Section of the Children's Bureau also helps non-custodial parents file petitions for custody and visitation. In addition to the planned expansion of the Office of the Advocate for Noncustodial Parents, staff also recommended utilizing the Court website and the new Ambassador Program as other vehicles that could provide additional information or "helpful links" to parents who wish to self-represent. Mr. Walker is receptive to developing additional instructional materials and forms to help pro se litigants navigate the system but cautions that no "one size fits all" and such instructional materials should complement but not substitute for person to person assistance in this area.

7. The Court should review its orientation and training program for all probation staff, paid and volunteers, in view of the *Desktop Guide to Good Juvenile Probation Practice*.

COMMENTS: Staff agrees that training of probation staff (new officer orientation and ongoing in-service training) is an issue that requires our immediate attention. Juvenile Court is a court of record and a court of law. The law and the Tennessee Rules of Juvenile Procedure provide the foundation for the Court policy which is generally outlined in the Administrative Manual of the Court and more specifically detailed in individual departmental desk manuals (where they exist). The Court should incorporate the Desktop Guide to Good Juvenile Probation Practice into development of a JCMSC Desktop Guide to provide uniform and consistent training for all officers while requiring department heads to develop individual departmental desktop guides specific to their sections and duties. While the essential duties of staff and volunteer probation staff are quite different, cross-training of both groups and within groups is essential to best practice. Dr. Torrealday recommends that the Court first undertake a complete reassessment of the job tasks of staff officers as well as the APS to ensure that present day realities mesh with current expectations relative to staff duties. The Court's training officer (Ms. Pam Taylor) does an excellent job of providing essential basic training to a broad and diverse cross-section of staff. The Court needs funds to contract with a curriculum development professional to develop appropriate training curricula for all probation officers – but ONLY AFTER court services administration and management reassess the role and duties of individual staff and volunteer probation officers and generate appropriate recommendations to the Judge.

8. The Court should develop guidelines on what information should be presented to the judicial officer and contained in the intake interview and the information and recommendation at the dispositional hearing.

COMMENTS: Staff generally concurs that guidelines should be developed. Dr. Torrealday notes that currently the type of information gathered in our intake interviews (the initial Children's Bureau Counselor conference) varies "significantly" by individual officer. Once beyond the relatively consistent demographic/contact information documentation, the nature and extent of information collected seems to be largely impacted by the individual officer's level of investment and philosophy. She further points out that the Court's creation of the Detention Hearing Summary was a step in the right direction of assuring that minimum pieces of information are collected and appropriately disseminated. She states, "It is argued that the officers know much about families, which is likely true, but if the information is not outlined/explained/communicated, how do others working the case benefit from it?" Mr. Maness notes, "While JCS currently uses a required fields process to enter required information, probation counselors use different methods and gather different information at the first conference." He suggests that an interview template would help guide officers through the process and would help to standardize the format. The recommended *Desktop Guide to Good Juvenile Probation Practice* offers guidelines for structured interviewing.

9. The Court should adopt a risk assessment instrument that has been validated in a comparable jurisdiction and permits probation officers to identify strengths, needs, and protective factors.

COMMENTS: The Office of Clinical Services in conjunction with YSB is already preparing to utilize the YLS/CMI risk assessment tool to measure risk/need/protective levels of youth placed in custody of YSB to determine optimal placement/programming needs. On the other end of our juvenile justice continuum, our Detention Bureau officers employ the DAT to determine which children should be detained. Staff generally concurs that the use of appropriate risk assessment instruments should rapidly be required of Children's Bureau probation officers. This will require additional resources but is essential in more effectively assigning youth to probation or some other form of diversion. Ms. Mamie Jones notes that, other than basic charge and demographic information, currently the V&C sheet is the only information forwarded to an APO who is assigned probation supervision of a child and the V&C frequently lacks useful information for the APO. She notes that use of valid risk assessment instruments throughout the case management process would assist probation and judicial staff as well.

10. The Shelby County Commissioners and the Juvenile Court Judge should meet with Memphis public school officials to develop and implement a curriculum under which a minimum of six hours of classes would be taught by a special education teacher for each child in detention each day that the Memphis public schools are in session, with remedial classes during the summer school session.

COMMENTS: Most detainees are Memphis City Schools' students; however, some are Shelby County Schools' students who have been a sticking point in previous discussions of this issue over the years. That is due to the law requiring that education of incarcerated individuals is the province of the local education agency, which is MCS. The Detention Center of Juvenile Court is a short-term, pre-adjudicatory detention center and, as such, is not required by TDCS to provide an on-site "school." In addition, because detained youth generally spend so few days in detention before their final adjudication and disposition hearings, a traditional educational program in detention is generally not practical, especially given the fact that the detention population at any moment reflects the entire spectrum of developmental and grade levels offered by the school system. Juvenile Court currently operates under an MOU with Memphis City Schools whereby MCS sends an instructor to detention to address the needs of any detainee who has previously been identified by MCS as a "special education" student. The Court provides the GOALs program which concentrates on life skills curriculum units to the rest of the population. Detention stays are now slightly increased due to the complexity of the cases presenting to the court and the need to more effectively assess or evaluate the many needs of youth presenting to the system (including unmet mental health and substance abuse treatment needs and impaired cognition). Changing how Juvenile Defenders are appointed could result in more continuances. Prosecutors are seeking more continuances in violent crime or gang related cases, which contribute to longer detention stays.

11. The Detention Center should either work with the Shelby County library system to have age- and sex-appropriate reading materials available to the youth in detention, whether through a "book mobile" or through the development of a detention reading library by means of purchases or donations.

COMMENTS: In recent years, the Volunteer Services Bureau had responsibility for soliciting donations of reading materials for detainees from area bookstores or purchasing surplus books on sale from the public library. Staff would also donate magazines and books. However, the responsibilities of the VSB have vastly increased and, to ensure an ongoing adequate inventory of age, gender, and culturally appropriate reading materials in detention, more funding will need to be made available to the Court through the general fund to purchase these materials. VSB and the grants management office of the Court will continue to supplement the inventory with donations and purchases that can be made with end of year surplus grant funds.

12. The Court and the juvenile detention center should explore certification by the American Correctional Association (ACA).

COMMENTS: Court personnel are puzzled by a comment contained in the NCSC report pursuant to this recommendation that “certification by ACA is difficult, and the Shelby County juvenile detention center may not meet the ACA Standards.” This Court is well aware of difficult accreditation standards. Two of our YSB monitored residential facilities are accredited by ACA and the third is jointly accredited by JCAHO and CARF. Beyond that, the Court’s detention center is not subject to licensure by the Tennessee Department of Children’s Services but we very successfully undergo an annual audit of conditions of confinement by that department according to state standards. If ACA accreditation of the Court’s detention center is a desired goal, then the significant necessary funding to pursue that accreditation process should be sought from the county general fund. If necessary funding is provided, the detention center will have no difficulty meeting ACA standards.

13. The Court should look at ways in which information technology changes can promote enhanced effectiveness and efficiency in day-to-day operations. Specific areas where changes are warranted include the following:

- Given the significant role of the clerk’s office in the overall operations of the Juvenile Court, consideration should be given to developing capacity for automatic electronic exchange of information between the clerk’s office information system and the Court’s case management system (JCS). For example, transactions completed in the clerk’s office (such as taking payment) should automatically show up in the appropriate file in JCS.
- There should be more emphasis on caseflow management in the development of routine reports, including exception reports, for the Juvenile Court. The Court should survey users as to the types of reports they find most useful.
- The Court should ensure that the JCS system can support the increased emphasis on outcome evaluation and performance measurement.

As part of any effort to implement information technology changes such as those suggested here, the Juvenile Court should look closely at its day-to-day business processes to streamline case processing workflow and make optimal use of the capacity of information technology.

COMMENTS: Staff agrees with this recommendation. The Clerk’s cooperation will be required to facilitate optimal electronic exchange of information between our two systems. The highly developed caseflow management that is required today, the monitoring of that caseload management

and the Court's goal of expanding the scope of outcome evaluation and performance measurement will require additional funding and resources.

14. Without compromising any appropriate confidentiality requirements, the legal files kept by the clerk's office for dependency and neglect cases should present a full and accurate summary of the factual grounds for the court's jurisdiction, the nature and dates of all court hearings, the judgment of the court and its factual basis, and the nature and dates of all post-judgment proceedings.

COMMENTS: This recommendation evoked divergent staff opinions, which seemed to depend upon where particular staff is assigned. Most Children's Bureau staff either N/A responded to this recommendation or indicated they felt this was already happening. Staff outside Children's Bureau that interface with the CB in serving clients felt strongly that current documentation is sometimes disjointed, disconnected, and lacking the common thread of continuity that NCSC prefers. Ms. Shannon Caraway asked, "Do they want the orders and other legal documents we currently put in the jacket to contain the detailed information listed, or do they want additional documents added that currently don't exist, or are currently being placed in the social file?" Essentially, NCSC recommends that the Court's master document (the legal file) adequately and sufficiently document the history and the basis for the court's findings and decisions.

NOTE: T.C.A. § 37-1-153 requires maintaining confidentiality of Juvenile Court files and records, and specifically protects against disclosure of medical, psychological and similar records. For this reason, Juvenile Court maintains a "legal" file (containing petitions and orders) and a "social" file (containing protected information).

15. The Juvenile Court must continue its efforts to assure that its case files reflect requirements of the law bearing on "reasonable efforts" and "contrary to the welfare" findings.

COMMENTS: Dr. Torrealday comments, "I believe justifications for all decisions should be documented so anyone who reviews the file could/should come to a similar conclusion. If it is not documented then it remains questionable to individuals within and outside of the court." Integrity of documentation can only be assured through development and consistent implementation of a quality assurance process administered by Court Services management that involves a routine and stringent case file audit.

16. For every abuse or neglect case, the Juvenile Court case files should indicate whether there has been a determination of eligibility for representation at public expense; whether legal counsel has been appointed, waived or privately retained;

and whether a GAL has been appointed. Case files should show the names of all attorneys in cases and who they represented, as well as the names of GALs and any withdrawals by legal counsel.

COMMENTS: Staff concurs that this documentation should be available in every relevant case file and is working toward that end. Ms. Shannon Caraway has asked if the form that has been developed as the request for indigency legal representation should be added to JCS since our staff has been instructed to enter all attorneys assigned to D/N cases at the complaint level in JCS. Mr. Maness noted that the Judge established a policy shortly after taking office for the appointment of Guardian ad Litem in Dependency and Neglect Cases. That policy directs that a GAL will be appointed for every child who is a party to a dependency and neglect case. Since every child by their status as children meets the requirements for appointment of legal counsel, it is not necessary to make a finding that they cannot afford legal counsel.

17. For cases filed in the coming court year, the Juvenile Court should adopt a goal that, absent either (a) grant of a motion for extension for good cause on the record (and reflected in the case file) by a defendant or by the GAL or legal counsel for the child, or (b) grant of a motion for extension for good cause on the record (and reflected in the case file) by the State of Tennessee, at least 75% of all dependency and neglect cases meet applicable time requirements of the Tennessee Rules of Juvenile Procedure. In the following court year and each year thereafter, the goal should be for 90% of cases to have an adjudicatory hearing within the time requirements in the rules. In its annual report to the public, the court should include data on its actual performance in terms of this goal for all petitions filed during the year.

COMMENTS: To effectively meet these goals will require additional resources and staffing. However, as Ms. Dini Malone notes, “It is vital that we study our performance reports, assess performance history, study and initiate changes on those components that hinder our ability to process cases in a timely manner, and proceed with meeting required timelines.” The Tennessee Rules of Juvenile Procedure govern these timelines. They are not optional.

18. Court records (including case files) should accurately reflect all continuances, which parties have requested them, and the reasons for granting them. To assure that parties and counsel prepare adequately for court hearings, the Juvenile Court should maintain the expectation that court events will in fact occur as scheduled.

COMMENTS: Staff concurs with this recommendation. In order to pull exception reports around this issue, Ms. Shannon Caraway suggests that JCS be modified to require the user to enter each continuance request, the name of the individual requesting the continuance, and the reason for granting the continuance.

19. As with dependency and neglect case files (see above), and without compromising any appropriate confidentiality requirements, the legal files kept by the clerk's office for delinquency cases should present a full and accurate summary of the factual grounds for the court's jurisdiction, detention hearing dates, the nature and dates of all other court hearings, the judgment of the court and its factual basis, and the nature and dates of all post-judgment proceedings.

COMMENTS: Staff generally concurs with this recommendation although several questioned the validity of figures cited in the NCSC report concerning juveniles detained and the timeliness of detention hearings. Dr. Torrealday stated, "I believe the length of stay in detention is noted in JCS but not in the hard file (a continuing problem as long as we are working with dual systems.) The 47 cases referred to is unclear. Could it be that of the 47, 37 met criteria for a detention hearing (i.e. DAT score >16) and the other 10 qualified to be released but were not picked up and a detention hearing would not have been warranted or perhaps have been YSB violators who don't go to detention hearings?" She and other court officers also question the statement that 21% of juveniles did not have a detention hearing. She again questions whether these youth were YSB violators or were youth who had qualified for release with bond originally but remained in detention until parents could pick them up? Clearly, this issue warrants development and monitoring of exception reports that can answer these questions.

20. As with abuse of neglect cases, all Juvenile Court delinquency case files should indicate whether there has been a determination of eligibility for representation at public expense; whether legal counsel has been appointed, waived or privately retained. Case files should record the appearances and the names of appointed, retained, or conflict counsel, as well as any withdrawals by defense counsel or prosecuting attorneys.

COMMENTS: Soon after taking office, Judge Person established policies for appointment of guardian ad litem in dependency and neglect cases and for appointment of attorneys in delinquency, unruly, and contempt cases. Mr. Steven Allen notes that probation officers could benefit from a guide or standard for family income level that officers could use prior to court proceedings to inform clients if they qualify for representation by the Juvenile Defender's Office.

21. As with dependency and neglect cases, the great majority of delinquency cases should have a prompt adjudicatory hearing. For the coming court year and each year thereafter, the Juvenile Court should adopt a goal that, absent either (a) the grant of a motion for extension for good cause on the record (and reflected in the case file) by the defendant, or (b) the grant of a motion for extension for good cause on the record (and reflected in the case file) by the State of Tennessee, at least 90% of all delinquency cases meet time requirements set forth in the

Tennessee Rules of Juvenile Procedure. In its annual report to the public, the court should include data on its actual performance in terms of this goal for all petitions filed during the year.

COMMENTS: Meeting these goals will require more funding and staff resources. Deadlines and work quality are being affected by staff shortages. Mr. Maness suggests that the court should adopt or exceed these recommendations despite the fact that more serious and complex cases are presenting to the court.

22. To guide its efforts to provide justice and customer service to all those who come before it, the Juvenile Court should develop a formal mission statement, with related goals and objectives for accomplishment of that mission. Accomplishment of the Court's mission, goals, and objectives should give direction to the operation and management of the Court, and the Court's progress in the achievement of its goals and objectives should be part of the Court's annual report to the public.

COMMENTS: Staff concurs that the court's mission statement should be addressed with an eye toward measurable goals and objectives that are specific to each department. The mission statement should be clearly visible to staff and to the public and be integrated into the operating performance of the entire court.

23. Recognizing the many positive accomplishments by the Juvenile Court, as well as the improvements that it has made since September 2006, the Court should continue its improvement efforts in light of such nationally recognized best practices as those highlighted in the National Council of Juvenile and Family Court Judges (NCJFCJ) Resource Guidelines: Improving Court Practice in Child Abuse and Neglect Cases and Improving Juvenile and Family Court Handling of Juvenile Delinquency Cases: Guidelines for Improving Court Practice.

COMMENTS: Staff concurs that best practices should be incorporated into staff orientations and in-service training opportunities. Ms. Schedler notes, "Most every grant requires that best practices be used and/or referenced. Interagency Services will continue to research best practices, model programs, and make recommendations as indicated." Ms. Malone notes that the weekly Court Services meeting provides a timely and useful setting to address all recommendations in an organized and cohesive manner.

24. Consistent with its mission, goals, and objectives, and with nationally accepted performance standards and measures, the Court should adopt court performance standards with associated performance measures. The Court's annual report to the public should include a report on its performance in light of such standards and measures. In addition, the individual performance of all Court officials and

employees should be linked to and assessed in terms of the Court's mission, goals, objectives, and performance standards and measures.

COMMENTS: Staff generally concurs with this recommendation but notes that such an effort will require additional funds and staff resources in addition to necessary additional operational resources. However, staff agrees that a coordinated quality assurance process directed at all Court Services operations is key to developing staff, building an effective team, and improving customer service.

25. Through a broad group including all representatives of stakeholders in Shelby County juvenile justice, the Court should work collaboratively to achieve (a) further improvements in the processing of both juvenile delinquency and dependency and neglect cases, and (b) expansion of the network of services and opportunities for the children and families of both the City of Memphis and suburban areas of Shelby County.

COMMENTS: Juvenile Court has a long history of working collaboratively to address the needs of children and families in Shelby County and, over the years, has fostered development of organizations to meet unique service needs where none existed. Examples are Court Appointed Special Advocates (CASA), Commission on Missing and Exploited Children (COMEC), the organization now known as Youth Villages, the creation of the Youth Services Bureau to provide "local solutions to local problems" and now the promotion and collaborative development of JustCare for Kids, whose mission is to promulgate the development of System of Care philosophy and practice in Shelby County. The Court partners with other stakeholders in Operation Safe Community, the Memphis Shelby Crime Commission and a host of other initiatives. The Office of Interagency Services was created to develop and expand children's services in Memphis and Shelby County through collaboration and partnerships. That office publishes a monthly report listing extensive program, grant, and community initiative participation. The Court's large volunteer force represents all sectors of the community as they work in full partnership with staff to serve children and families. Also, upon taking office in September 2006 Judge Person established the Advisory Council that is a diverse group of stakeholders who represent the entire county.

26. As with all other courts, the Juvenile Court in Shelby County should promote openness, transparency, and accountability in all elements of the juvenile justice process, except those where confidentiality is necessary in individual cases. To this end, the Court should make its annual report an opportunity to provide information to the public about its accomplishments not only in serving the best interests of children and protecting society, but also in terms of access to justice; expedition and timeliness; equality, fairness, and integrity in the court process; judicial independence and accountability; and promotion of public trust and confidence in the courts and the justice system.

COMMENTS: Judge Person assumed office in September 2006 with a firm commitment to these goals. The immediate establishment of the Office of the Advocate for Non-custodial Parents, the Court's Advisory Council, a renewed commitment to recruitment of additional community volunteers to expand the Auxiliary Probation Service, and his stated expectations for improved customer service were instituted within days of his taking office. Despite the events of the past eight months, the Court remains committed to development of a strategic plan to further develop plans to build upon the Court's many successes, improve its performance where needed, and to improve communications with the public so that the work of the Court is understood and supported by all law abiding citizens in Shelby County.

APPENDIX B.

**CORRECTION OF MINOR TYPOGRAPHICAL ERRORS
IN NCSC JUNE 8 DRAFT REPORT**

CORRECTION OF MINOR TYPOGRAPHICAL ERRORS IN NCSC JUNE 8 DRAFT REPORT

After a review of NCSC's draft report dated June 8, 2007, one of the project team members noted some minor typographical errors. In addition, staff members of the Juvenile Court noted that there were two recommendations with the same number in the draft report. In response, the NCSC project team has made the following copy edit changes in this final report:

Cover page: The name "Larry G. Myers" has been changed to "Lawrence G. Myers."

Pages iii (Table of Contents) and v [Acknowledgments]: Changes were made to indicate the addition of Appendices A and B at the end of the report.

Page 1 [2nd paragraph, last line]: The number "25" was changed to "26" to reflect the correction of an error (see p. 31 comment below) in the numbering of recommendations.

Page 12 [4th line]: The word "be" has been inserted between "Would" and "needed," so that it reads, "Would be needed . . ."

Page 20 [2nd and 3rd lines]: The word "District" has been capitalized, and a comma was inserted after it. In addition, there was a space between "s" and "cools" that has been removed, and an "h" has added to make the word "schools."

Page 24 [Under "(B) Information system etc." – 3rd paragraph – 7th line]: An "s" has been added to "In some court" to make it "In some courts."

Page 30 [Under "4. Case Processing" – 2nd paragraph – 2nd line – 4th word]: This word has been changed to "within" from "with."

Page 31 [In Recommendation 16]: This recommendation was numbered incorrectly in the draft report, and it has been changed from "16" to "17." (In addition, all subsequent recommendations have been renumbered.) In part (b) of the recommendation, the phrase "grant of a motion" was stated twice, and one has been removed.

Page 36 [in the paragraph after Recommendation 19]: The last sentence was left unfinished in the draft report, and it has been completed.

Page 36 [under "4. Timely Adjudication Hearings, in the 2nd line]: The 12th word has been changed from "with" to "within."

In the preparation of this final report, no other changes were made from the text of the June 8 draft report.